HIGH COURT LEGAL SERVICES COMMITTEE, CHENNAI

Lok Adalat-I organised by the High Court Legal Services Committee

Tuesday, the 24th day of September, 2019

LOK ADALAT AWARD

(Chapter VI and u/s 21 of Legal Services Authorities Act, 1987)
Presided over by

The Hon'ble Mr.JUSTICE M.THANIKACHALAM (Retd.)
and
Member

Mr.S. Gunaseelan

CMA. Nos.2544 and 3194 of 2019

(Both the Appeals to set aside the Decreetal Order and Judgment passed on 08.10.2018 made in M.C.O.P.No.1627 of 2016, on the file of Motor Accident Claims Tribunal, Small Causes Court IV, Chennai).

C.M.A. No.2544 of 2019
S.Lalitha .... Appellant

Vs.

1. M. Duraiswamy

2.The National Insurance Co. Ltd.
Motor Third Party Claims (Hub)
Regina Mansion, 3rd Floor,
No.46, Moore Street, Chennai - 600 001.
(R1 -set ex-parte before the Tribunal)
....Respondents

C.M.A. No.3194 of 2019
The National Insurance Co. Ltd.
Motor Third Party Claims (Hub)
Regina Mansion, 3rd Floor,
No.46, Moore Street, Chennai - 600 001.
.... Appellant

Vs.

1.S. Lalitha

2.M. Duraiswamy

....Respondents

(R2 -set ex-parte before the Tribunal)

This case came up for settlement before the Lok Adalat. Both the parties are present. Mr.J. Chandran, learned counsel for the Insurance Company and Mr.M.Swamikannu, learned counsel for S.Lalitha are present. After mutual discussion, negotiation, mediation and conciliation between both parties, they arrived at a compromise to settle the matter as follows:

TERMS OF SETTLEMENT

Thirumathi Lalitha, claimant in M.C.O.P. No.1627 of 2016 who is the appellant in C.M.A. No.2544 of 2019 and the 1st respondent in C.M.A. No.3194 of 2019 met with a road accident in which she sustained grievous injuries, resulting in a claim petition in the above said M.C.O.P. for a sum of Rs.46,00,000/-, the Tribunal after enquiry came to the conclusion considering the injuries sustained by the claimant that she is entitled to a sum of Rs.7,71,000/- with interest thereon @ 7.5% p.a.

2. On the above basis, an order came to be passed which is under challenge by both the parties.

3. The Claimant not satisfied with the award passed by the Tribunal, preferred an appeal for enhancement of the claim to Rs.11,00,000/- restricting the original claim which is pending.

4. The Insurance Company i.e., The National Insurance Company Ltd., aggrieved by the total award amount, filed the appeal challenging the entire amount praying for setting aside the award.

5. When both the appeals are pending before us, the parties to the lis thought of settling the matter and pursuant to the same, they sat together discussed the matter came to the conclusion, instead of dragging the case for some years to settle the same amicably, benefiting both the parties.

6. In pursuant of the above approach, the parties came to the conclusion by consent of all, by mutual consent under which the claimant is entitled to a sum of Rs.6,00,000/- (Rupees Six Laksh only) with interest thereon @ 7.5% p.a. from the date of petition till the date of deposit.

7. This amount was agreeable to both the parties and when enquired by this Forum, the advocates as well as the parties

concerned is present, agreed, requesting to modify the award of the Tribunal by passing an award for Rs.6,00,000/-, with interest thereon as said above.

8. In view of the above settlement reached between the parties, the order of the Tribunal is to be modified.

9. The appeal preferred by the claimant is for Rs.11,00,000/- and by the above said compromise, she had agreed for lessor amount not pressing the appeal, more or less, since she had accepted to receive a sum of Rs.6,00,000/- with interest thereon @ 7.5% p.a. which is less than the award amount, granted by the Tribunal.

10. In this view of the matter, the appeal preferred by the claimant is to be dismissed as settled between the parties.

11. The Insurance Company though challenged the entire award, as per the settlement, now, they have agreed to pay a sum of Rs.6,00,000/-(Rupees Six Lakhs Only) with interest thereon @7.5% thereby giving a go by, for the challenging the entire award amount and the appeal preferred by the Insurance Company is to be modified reducing the award amount, which will merge with the appeal preferred by the claimant. For the reasons assigned above, the appeal preferred by the Insurance company is partly allowed, reducing the award amount to Rs.6,00,000/- (Rupees Six Lakhs Only) and further passing an award for the above said amount with interest thereon @ 7.5% p.a.

12. In this way, this appeal preferred by the Insurance Company in C.M.A. No.3194 of 2019 is modified.

13. In view of the above conclusion in both the appeals, award by the Trial Court is to be modified, directing the 2nd respondent in the above said appeal, to pay a sum of Rs.6,00,000/-(Rupees Six Lakhs Only) with interest thereon @ 7.5% p.a from the date of petition, till the date of payment.

14. The Insurance Company is directed to deposit the modified award amount of Rs.6,00,000/-(Rupees Six Lakhs Only) with interest @ 7.5% p.a. within a period of four weeks, from the date of receipt of copy of this order. The award is passed accordingly.

15. As per the order passed by the Hon'ble High Court in the stay petition, there is a condition for stay, to pay 75% of the award amount. At present, it is not known whether the said amount wad paid or not. In case, the Insurance Company had paid 75% of the award amount, in addition to Rs.25,000/- the mandatory to deposit, they are directed to pay the balance

amount within the above said time, if any.

16. In case, if the Insurance company has not deposited 75% of the award amount as ordered by the Hon'ble High Court, they are directed to pay the above said award amount, less Rs.25,000/- which was already deposited, at the time of the preferring the appeal, being mandatory deposit which amount can be withdrawn by the claimant as per modified award.

17. The Tribunal is directed to issue the cheque to the party concerned on proper identification in accordance with the terms of the modified award, without insisting on any formal permission petition. The Civil Miscellaneous Appeals are disposed of accordingly.

18. The full Court fee shall be refunded to the appellant in the manner provided under Section 69-A of the Tamil Nadu Court-Fees and Suits Valuation Act, 1955 and the Court Fees Act, 1870 as provided for under sub Sec.1 of Section 21 r/w 25 of LSA Act 1987 as amended in 1994 and there shall be no demand for additional Court fee.

Sd/-
S. Lalitha

Sd/-
Counsel for the Appellant (Claimant)

Sd/-
The National Insurance Co. Ltd.
Motor Third Party Claims (Hub)
Regina Mansion, 3rd Floor, No.46, Moore Street,
Chennai - 600 001.

Sd/-
Counsel for the Appellant(Insurance Company)

Sd/-
Judge

Sd/-
Member

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

To:The parties/Advocate concerned

Copy to:

1. Motor Accident Claims Tribunal, Small Causes Court IV, Chennai.

2.The Secretary, High Court Legal Services Committee, Chennai.

3.The Section Officer, V.R.Section, High Court, Madras. 2 copies

4.The Section Officer, Lok Adalat Section, High Court, Madras.+2 copies

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CP(CO)
GMY(18/11/2019)