BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 29.04.2019
CORAM
THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.M.A.(MD).No.354 of 2019
and
C.M.P.(MD).No.4422 of 2019

Iffco Tokio General
Insurance Company Limited,
Iffco Bhavan, T.Nagar,
Chennai. ... Appellant/Respondent No.2

Vs.

1.Thiru Micheal Britto ... 1^{st} Respondent/Petitioner
2.Thiru.Robert Arokiyaraj ... 2^{nd} Respondent/1^{st} Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 30 of the Employee Compensation Act, against the order dated 09.11.2018 passed in E.C.No.208 of 2013 on the file of the Commissioner for Employees Compensation cum Deputy Commissioner of Labour at Thiruchirapalli, insofar as liability to pay the interest for the defaulted period is concerned.

For Petitioner :Mr.V.Sakthivel
For Respondent :Mr.N.Sudhagar Nagaraj

JUDGMENT

This Civil Miscellaneous Appeal has been preferred against the order dated 09.11.2018 passed in E.C.No.208 of 2013 on the file of the Commissioner for Employees Compensation cum Deputy Commissioner of Labour at Thiruchirapalli, insofar as the liability to pay the interest for the defaulted period is concerned.

2.The brief facts of the case is that

The first respondent/petitioner was working as a Driver in the first respondent's vehicle and on 26.02.2013 at about 05.00 hours, when the vehicle was proceeding from Trichy to Kovai, the vehicle suddenly dashed on the road side tree and hence, the accident had happened. Due to which, the petitioner sustained grievous injuries all over the body and fracture on his left leg below knee and his right side shoulder. Thereafter, he was admitted in Government Hospital, Kovai. The first respondent/petitioner has spent a sum of Rs.75,000/- towards medical expenses. Hence, the claimants claimed a sum of Rs.6 lakhs as compensation.

3.The case of the claimants was resisted by the appellant/Insurance Company by filing a counter statement. According to the appellant, due to the negligent act of the petitioner, the accident had taken place and hence, they are not liable to pay compensation. It is further stated that it is for the petitioner to establish the age, occupation and income.

4.Before the Tribunal on the side of the petitioner as many as 7 documents were marked as Exs.P1 to P7 and P.Ws.1 and 2 were examined as witnesses and on the side of the respondents, neither documents nor exhibits were marked.

5.After considering both oral and documentary evidence, the learned Commissioner has given a finding that the alleged vehicle was insured with the second respondent and on the date of accident, the policy was in force and the second respondent has not objected the said policy, directed the second respondent to pay the compensation of Rs.3,25,288/- with 12% interest per annum form the date of accident till the date of realization. Against which, the present appeal has been filed by the appellant / Insurance Company.

6.In the grounds, the learned counsel appearing for the appellant has contended that the learned Commissioner has not considered the interest for the delay period and directed the appellant to pay the award amount with interest from the date of accident till the date of payment. It is further contended that the learned Commissioner has not considered the main claim petition, which was dismissed for default on 12.11.215 and restored the same on 10.07.2018.

7.The grievance of the appellant/Insurance Company is that there is a delay of 971 days in restoring the claim application, whereas, the appellant has deposited the entire amount and the delay has been occurred, due to the attitude of the claimant in not proceeding with the claim application at the earliest and hence, first respondent/petitioner is not entitled to get interest for the delay period of 971 days. The other grievance of the appellant/Insurance Company is that the appellant/Insurance Company has deposited the entire amount along with interest for the default period, whereas the first respondent/petitioner is not entitled the interest amount for the delay period. Hence, the order of the learned Commissioner is liable to be dismissed.

8.On a perusal of the record, it is observed that the learned Commissioner has directed the appellant/Insurance Company to deposit the award amount with interest including the default period is not a fair and reasonable one and hence, the order of the learned Commissioner passed in E.C.No.208 of 2013 is set aside, with regard to the amount of interest for the default period viz., 12.11.2015 to 10.07.2018. The excess amount if any, shall be refunded to the appellant/Insurance Company.

9.Accordingly, the Civil Miscellaneous Appeal is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

/ True Copy /

Sub Assistant Registrar(CS)

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To

1.The Commissioner for Employees Compensation
cum Deputy Commissioner
of Labour at Thiruchirapalli.

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.**(2 copies)**

+1 CC to M/s.V.SAKTHIVEL, Advocate (SR-63700[F] dated 29/04/2019)
+1 CC to Mr.N.SUDHAGAR NAGARAJ,Advocate(SR-64076[F]dated 30/04/2019)

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