

(2012) 07 DEL CK 0033
In the Delhi High Court
Case No : MAC. APP. 22 of 2012

ICICI Lombard General Insurance Co Ltd.	APPELLANT
Vs	
Laxmi Devi and Others	RESPONDENT

Date of Decision : 31-07-2012

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 12 Rule 6
Motor Vehicles Act, 1988 — Section 140, 168, 169

Citation : (2012) 07 DEL CK 0033

Hon'ble Judges : G.P. Mittal, J

Bench : Single Bench

Advocate : Rajat Brar, Proxy Counsel for Ms. Rameeza Hakeem, for the Appellant; Roshan Saini, for R-1 to R-4, for the Respondent

Judgement

G. P. Mittal, J.—The Appellant takes exception to an interim award whereby a compensation of Rs. 11,46,944/- was awarded purported to be under Order XII Rule 6 CPC. As per the Claims Tribunal Agreed Procedure (the Agreed Procedure) the designated officer of the Insurance Company is required to make a reasoned decision which shall constitute a legal offer to the Claimants. If the legal offer is accepted by the Claimants, a consent award is required to be passed by the Claims Tribunal.

2. The Agreed Procedure further provides that if the offer of the Insurance Company is not acceptable to the Claimants or if the Insurance Company has any defence available to it under law, the Claims Tribunal shall proceed to conduct inquiry u/s 168 and 169 of the Motor Vehicles Act, 1988 (the Act).

3. Sub Rule (4), (5) and (6) of Rule 6 of the Agreed Procedure are extracted hereunder:-

6. Procedure on receipt of the detailed accident report:-

x x x x x x x x x x

(4) The compensation assessed by the Designated Officer of the Insurance Company in his written reasoned decision shall constitute a legal offer to the claimants and if the claimants accept the said offer, the Claims Tribunal shall pass a consent award and shall provide 30 days time to the Insurance Company to make the payment of the award amount. However, before passing the consent award, the Claims Tribunal shall ensure that the claimants are awarded just compensation in accordance with law. The Claims Tribunal shall also pass an order with respect to the shares of the claimants and the mode of disbursement.

(5) If the claimants are not in a position to immediately respond to the offer of the Insurance Company, the Claims Tribunals shall grant them time not later than 30 days to respond to the said offer.

(6) If the offer of the Insurance Company is not acceptable to the claimants or if the Insurance Company has any defence available to it under law, the Claims Tribunal shall proceed to conduct an inquiry under Sections 168 and 169 of the Motor Vehicles Act and shall pass an award in accordance with law within a period of 30 days thereafter.

4. Rule 11 (3) of the Agreed Procedure also lays down that where the Claimants refuse to accept the offer of settlement, the Claims Tribunal has to give a period of 30 days to the Insurance Company to file the written statement. Rule 11 (3) of the Agreed Procedure is extracted hereunder:-

11. Duties of the insurance company:-

(3) When on the date of hearing of such application and on receipt of such offer from the Insurance Company, the Claimant(s) agree to the offer of settlement of the Insurance Company, the Claims Tribunal shall record such settlement by way of a consent decree and payment shall be made by the Insurance Company within a maximum period of thirty days from the date of receipt of a copy of the consent decree which shall be made available to the parties by the Claims Tribunal within a maximum period of seven working days from the passing of such decree.

5. Section 140 of the Motor Vehicles Act, 1988 (the Act) makes provision for an interim compensation in case of permanent disability and death.

6. The impugned order directing payment of Rs. 11,46,944/- which were offered in full and final settlement as an interim compensation was illegal; the same is accordingly set aside. The Claims Tribunal is duty bound to award interim compensation u/s 140 of the Act and then proceed to determine the compensation finally.

7. It is stated that the matter is listed before the Claims Tribunal on 03.08.2012. Parties are directed to appear before the Claims Tribunal on the said date.

8. The statutory deposit of Rs. 25,000/- be refunded to the Appellant Insurance Company.

9. Pending Application also stand disposed of. Copy of the order be sent to the Claims Tribunal through special messenger.