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(2009) 08 MAD CK 0129

In the Madras High Court

Case No : C.R.P. (NPD) . No. 2530 of 2008 and M.P. No. 1 of 2008

K. Sreekumar APPELLANT

Vs

B. Anwar and The New India Assurance Company Limited RESPONDENT

Date of Decision : 17-08-2009

Acts Referred:

Citation : (2009) 08 MAD CK 0129

Hon'ble Judges : M. Venugopal, J

Bench : Single Bench

Advocate : S. Mukunth, for the Appellant; S. Manohar, for 2nd Respondent, for the Respondent

Final Decision : Dismissed

Judgement

M. Venugopal, J.—The civil revision petitioner/claimant has filed this civil revision petition as against the order dated 26.2.2008 in I.A. No.

976 of 2007 in M.C.O.P. No. 26 of 2001 passed by the learned Additional District and Sessions Judge, Fast Track Court, Vellore.

2. The Tribunal, while passing orders in I.A. No. 976 of 2007, has inter alia opined that ''on perusal of the records it is observed that the petitioner

has calculated the excess amount of interest as per the calculation memo filed by him. But as per the High Court''s Order he is entitled to withdraw

amount of Rs. 3,31,364/- including interest accrued upto 26.3.2003 i.e. date of deposit. There is no cost award as per the High Court''s Order.

Hence, this petition is allowed on condition that the petitioner is entitled to receive the cheque for amount of Rs. 3,31,364/- and passed the orders

accordingly.''

3. The learned Counsel for the revision petitioner/petitioner urges before this

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Court that the Tribunal ought to have come to the conclusion that the

revision petitioner is entitled only to a sum of Rs. 3,31,364/- (which represents the award amount of Rs. 2,05,000/- plus interest of Rs. 1,26,364/-

from 8.12.1994 till 26.3.2003) and moreover, the petitioner is entitled to interest on the award amount from 08.12.1994 till 26.9.2007 rather than

restricting the same to 26.3.2003 and moreover, the sum deposited in the Bank belongs to the petitioner and therefore, he is entitled to that sum

from the date of deposit till withdrawal and the amount accrued as interest is that of the revision petitioner and he alone is entitled to claim the same

but these aspects of the matter have not been looked into in a meaningful manner by the Tribunal which has resulted in miscarriage of justice and

therefore, prays for allowing the civil revision petition.

4. In C.M.A. No. 333 of 2003 filed by the appellant/Insurance Company before this Court in Lok Adalat an award on 17.7.2007 has been

passed in terms of the settlement which is as follows:

After open and frank discussion, both the parties have compromised and agreed to settle the disputed claim at Rs. 2,05,000/- with interest at

7.5% per annum from the date of petition till the date of deposit.

Now the respondent/claimant is permitted to withdraw the entire settled award amount as mentioned supra, from out of the Court deposit towards

settlement of his claim.

After satisfaction of the decree, the balance amount lying in the Court deposit shall be refunded to the appellant/Insurance Company with accrued

interest if any etc.

5. It is the case of the revision petitioner/claimant that he has filed a cheque application on the file of the Tribunal for a sum of Rs. 4,50,550/- for

which the calculation memo is as follows:

Lok Adalat Award Amount ... Rs. 2,05,000.00

Interest on Rs. 2,05,000/- from

08.12.1994 till 26.03.2003 at 7.5% ... Rs. 1,26,364.00

Rs. 3,31,364.00

Interest amount from 26.12.2003

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till 26.09.2007 (application for

withdrawal) ... Rs. 1,05,622.00

Cost ... Rs. 13,564.00

Rs. 4,50,550.00

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6. According to the learned Counsel for the revision petitioner, the Tribunal has allowed the application in part for Rs. 3,31,364/- only and for

rejection of balance amount, the petitioner has filed the civil revision petition.

7. The learned Counsel for the revision petitioner submits that he is entitled to claim a sum of Rs. 1,05,622/- being the interest paid by the Union

Bank to the petitioner on his deposit amount of Rs. 2,05,000/- and the said interest is not paid by the Insurance Company for the period from

26.12.2003 to 26.09.2007, inasmuch as the same has been paid only by the Union Bank on the petitioner''s amount.

8. Continuing further, the sum of Rs. 2,55,000/- is split into two, of which Rs. 2,05,000/- belongs to the revision petitioner and Rs. 50,000/-

belongs to the respondent/Insurance Company and the interest for the respective amounts are to be paid to the respective parties and in this

process, the revision petitioner earns a sum of Rs. 1,05,622/- for the period from 26.12.2003 to 26.09.2007 and likewise the

respondent/Insurance Company is entitled for Rs. 50,000/- plus interest accrued thereon from 26.12.2003 which comes to Rs. 1,19,830/- lying in

deposit and therefore, the contention of the Insurance Company that the petitioner is not entitled to claim the interest of Rs. 1,05,622/- is not

proper.

9. In response, the learned Counsel for the Insurance Company/second respondent submits that during the pendency of C.M.A. No. 333 of 2003

filed by the Insurance Company, the matter has been referred to Lok Adalat for settlement and on 17.07.2007 in the presence and consent of

parties an award has been passed whereby the award of the Tribunal has been modified and in lieu thereof an award in favour of the revision

petitioner has been passed for Rs. 2,05,000/- with interest at 7.5% per annum from 08.12.1994 (date of petition) till 26.3.2003, the date of

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deposit of award amount by the Insurance Company before the Tribunal in pursuance of orders of stay passed by this Court and as per the Lok

Adalat award, the principal amount has been reduced to Rs. 2,05,000/- from Rs. 2,55,000/- and the rate of interest has also been reduced to

7.5% from 9% and the period of entitlement of interest has been restricted from the date of petition till date of deposit viz., 08.12.1994 to

26.3.2003 and further no costs have been awarded and therefore, the revision petitioner is entitled to receive Rs. 2,05,000/- towards principal and

Rs. 1,26,364/- being the interest thereon at 7% per annum (from 08.12.1994 till 26.03.2003) and the Tribunal has rightly allowed the petitioner to

receive the said amount and moreover, the request for receiving the interest on investment and costs have been rightly rejected by the Tribunal,

since the same has not been provided for in the award of the Lok Adalat and in fact, the award of Lok Adalat clearly shows that after paying the

petitioner, the second respondent-insurer is entitled to receive the balance with accrued interest and therefore, prays for dismissal of the civil

revision petition.

10. On a careful consideration of respective contentions, this Court is of the considered view that in conformity with the award passed by this

Court in Lok Adalat on 17.07.2007, the revision petitioner/claimant is only entitled to claim a sum of Rs. 2,05,000/- (Rupees Two lakhs and five

thousand only) with interest at 7.5% per annum from the date of filing of the petition from 08.12.1994 till 26.3.2003 i.e. date of deposit and

therefore, the order passed by the Tribunal in I.A. No. 976 of 2007 in M.C.O.P. No. 26 of 2001 permitting the petitioner/claimant to receive the

cheque for an amount of Rs. 3,31,364/- does not suffer from any serious infirmity or patent illegality and consequently, the civil revision petition

fails.

11. In fine, the Civil Revision Petition is dismissed, leaving the parties to bear their own costs. Consequently, the order passed by the Tribunal in

I.A. No. 976 of 2007 in M.C.O.P. No. 26 of 2001 dated 26.2.2008 is affirmed. The revision petitioner/claimant and the second respondent-

Insurance Company are directed to workout their remedy before the Tribunal viz., Additional District and Sessions Judge, Fast Track Court,

Vellore by filing necessary application as per Civil Rules of Practice to claim the

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respective amounts to which they are entitled. Having regard to

the facts and circumstances of the case, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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