(2017) 12 DEL CK 0134

In the Delhi High Court

Case No : MAC Appeal No. 1156, 1160 Of 2012, Civil Miscellaneous No. 18672, 18711 Of 2012

Reliance General Insurance Company Ltd — APPELLANT

Vs

Shyam Sunder Kumar Rai & Ors — RESPONDENT

Date of Decision : 05-12-2017

Acts Referred:

Citation : (2017) 12 DEL CK 0134

Hon'ble Judges : R.K.Gauba, J

Bench : Single Bench

Advocate : A.K. Soni, Navneet Goyal

Final Decision : Disposed Of

Judgement

R.K.Gauba, J

1. The first respondents in both these appeals were the claimants before the tribunal in claim cases (MACT 1030/10/09 and 1032/10/09) instituted on 20.04.2009. By similar judgments passed on 28.08.2012 in each case, the Motor Accident Claims Tribunal (Tribunal) held that they had suffered injuries in a motor vehicular accident that took place on 26.01.2009 at about 02.15 hours due to negligent driving of a container bearing registration no.HR-12-GA-0397 by Vinod Kumar, a respondent in these appeals. The tribunal awarded compensation in each case fastening the liability on the insurer to pay, it having concededly issued an insurance policy covering third party risk in respect of the vehicle in question. In the first case i.e. the case of Shyam Sunder Kumar Rai, the liability to pay with interest at 12% p.a. was added while in the other case the interest was fixed at 9% p.a.

2. Both these appeals by the insurer of the vehicle which has been found to be the offending one are pressed to contend that there was no negligence on the part of its driver, the site plan (copy at page 163 of the tribunal's record) prepared by the local police showing the container to be parked on the side

rather than in the middle of the road. This plea, upon perusal of the record of inquiry, is found to be unsubstantiated as the word of the claimants in their respective depositions about the container to be in the middle of the road has gone unimpeached, there being no effort made to bring the container driver into the witness box to prove facts to the contrary nor to secure the presence of the police officer who had prepared the site plan in question.

3. The insurer questions the imposition of interest at the rate of 12% p.a. in the first above mentioned case. There being no justification for such higher rate of interest, the same is reduced to 9% p.a following the consistent view taken by this court in Oriental Insurance Co Ltd v. Sangeeta Devi & Ors., MACA 165/2011, decided on 22.02.2016.

4. By order dated 05.11.2012 on MACA 1156/2012, the insurance company had been directed to deposit 60% of the awarded amount with interest at the rate of 9% p.a. with UCO Bank, Delhi High Court Branch. By a subsequent order dated 05.03.2013, some amount was directed to be released to the claimant. The registry shall now calculate the balance payable to the claimant under the impugned award and release the same with interest at the rate of 9% p.a. (nine percent) to them. The insurer is directed to satisfy the award by requisite deposit of the balance with the tribunal, making it available to be released to the claimant.

5. By order dated 05.11.2012 on MACA 1160/2012, the insurance company had been directed to deposit 50% of the awarded amount with interest at the rate of 9% p.a. with UCO Bank, Delhi High Court Branch. By a subsequent order dated 05.03.2013, some amount was directed to be released to the claimant. The registry shall now calculate the balance payable to the claimant under the impugned award and release the same with interest at the rate of 9% p.a. (nine percent) to them. The insurer is directed to satisfy the award by requisite deposit of the balance with the tribunal, making it available to be released to the claimant.

6. The statutory amounts, if deposited, in each case, shall be refunded after proof of the award having been satisfied is shown.

7. Both appeals and the pending application are disposed of in above terms.

