
(2012) 10 DEL CK 0264
In the Delhi High Court
Case No : MAC. App. 589 of 2012

Tata AIG General Insurance Company Ltd.	APPELLANT
Vs	
Babu Lal and Others	RESPONDENT

Date of Decision : 17-10-2012

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 35

Citation : (2012) 10 DEL CK 0264

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

Bench : Single Bench

Advocate : Sameer Nandwani, for the Appellant;

Final Decision : Disposed Off

Judgement

G.P. Mittal, J.—The only challenge to the order dated 20.04.2012 passed by the Motor Accident Claims Tribunal (the Claims Tribunal) is that while awarding compensation of Rs. 70,000/- on the basis of a settlement reached between the parties, the Claims Tribunal erred in awarding a sum of Rs. 5,000/- towards Counsel's fee in favour of the Counsel for the First Respondent. This Court while deciding bunch matters titled ICICI Lombard General Insurance Co. Ltd. v. Kanti Devi & Ors., MAC APP. 645/2012, decided on 30.07.2012 dealt with the question of award of Counsel's fee in great detail. Para 32 of the report is extracted hereunder:-

32. To sum up, it is directed :-

(i) The Claims Tribunal is empowered to award costs in a Claim Petition in terms of Section 35 read with Order XXA of the Code.

(ii) The Claims Tribunal is entitled to award the Counsel's fee in accordance with Rule 1 read with Rule 1A and Rule 9 of Chapter 16 Volume I of the Rules extracted earlier.

(iii) In case of compromise/settlement of the claims, the Claims Tribunal is not

entitled to go beyond the settlement reached between the parties. If the settlement does not provide for payment of any Counsel's fee, it shall not be within the domain of the Claims Tribunal to award the Counsel's fee.

(iv) If the compensation is awarded on the basis of DAR in pursuance of the legal offer made by the Insurer, the Claims Tribunal is not empowered to award any costs unless it forms part of the legal offer.

(v) The counsel fee can be directly paid to the counsel only when a specific agreement is filed and the Claimant requires payment of fee directly to the counsel because only then the Claimant would be liable to reimburse the fee or part thereof in case the award is set aside or varied.

2. Thus, it was laid down that in case of compromise/settlement of the Claim, the Claims Tribunal is not entitled to go beyond the settlement reached between the parties. If the settlement did not provide for payment of Counsel's fee; the Claims Tribunal was not entitled to award the same.

3. In the instant case no provision for Counsel's fee was made in the settlement reached between the parties. Thus, the order passed by the Claims Tribunal awarding counsel's fee of Rs. 5,000/- was illegal; the same is accordingly dismissed.

4. The Appeal is disposed of in above terms. Pending Applications also stand disposed of.