(1991) 12 AP CK 0032

In the Andhra Pradesh High Court

Case No : Appeal Against Order No''s. 617 and 618 of 1988

The New India Assurance Co. Ltd. APPELLANT

Vs

M. Pedda Buchinarayana and Others RESPONDENT

Date of Decision : 06-12-1991

Acts Referred:
Motor Vehicles Act, 1988 — Section 110D, 141(3), 92A

Citation : (1992) 2 ALT 104

Hon'ble Judges : Radhakrishna Rao, J

Bench : Single Bench

Advocate : S.V.R.S. Somayajulu, for the Appellant; M. Rajamalla Reddy, for the Respondent

Final Decision : Allowed

Judgement

Radhakrishna Rao, J.—The point that arises for consideration in these two appeals is whether the amount that has been granted u/s 92A of the Motor Vehicles Act, 1988 has to be given credit to, at the time of ascertaining the claim u/s 110-A of the Act. Section 92-A reads as follows:-

"92-A: Notwithstanding anything contained in Sub-section (1), where in respect of the death or permanent disablement of any person, the person liable to pay compensation u/s 140 is also liable to pay compensation in accordance with the right on the principle of fault, the person so liable shall pay the first mentioned compensation and

(a) If the amount of the first mentioned compensation is less than the amount of the second mentioned compensation, he shall not be liable to pay (in addition to the first mentioned compensation) only so much of the second-mentioned compensation as is equal to the amount by which it exceeds the first mentioned compensation:

(b) If the amount of the first mentioned compensation is equal to or more than the amount of the second mentioned compensation, he shall not be liable to pay the second-mentioned compensation."

2. In the first case, i.e., CMA No. 617/1988, Rs. 20,000/- was awarded. That is a case where the injured person filed the claim. Then, in the second case, Rs. 36,400/-was awarded. It is a case of death. So, the payment that can be made u/s 92-A is Rs. 7,500/- in the case of injury and Rs. 15,000/- in the case of death. But, on a perusal of the awards, it is clear that they have not deducted this amount that has already been paid u/s 92-A. Admittedly, the insurance company has paid the amount u/s 92-A. Section 141(3) which is in pari materia with regard to Section 92-A also gives an indication that the amount that has already been paid u/s 92-A has to be credited. Since that amount has not been paid u/s 92-A and has not yet been deducted .in the award that has been passed in the application u/s 110-A, this Court feels that the contention raised by the insurance company is correct. They are entitled for deduction of Rs. 7,500/- in the first case and Rs. 15,000/- in the second case.

3. The C.M.As are allowed. No costs.