
(1987) 06 KL CK 0056
In the High Court Of Kerala

United India Insurance Co. Ltd.

APPELLANT

Vs

George

RESPONDENT

Date of Decision : 01-06-1987

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 152

Citation : (1988) 2 ACC 167 : (1988) ACJ 45

Hon'ble Judges : K. John Mathew, J;K. Balakrishnan Nair, J

Bench : Division Bench

Judgement

John Mathew, J.—The 3rd respondent in OP. No. 85 of 1979 before the Motor Accidents Claims Tribunal, Ernakulam is the appellant. The Tribunal passed an award in 19th February, 1981, the relevant portion of which originally read as follows:

In the result, the petitioner is given an award for recovery of Rs. 20,000/- (Rs. Twenty thousand only) with 6 per cent interest from respondents 1 to 3.

2. Subsequently, on an application by the claimant (IA No. 358 of 1981) the Tribunal clarified that interest is to run from 10-04-1976 till realization. The amended award therefore now reads as follows:

In the result, the petitioner is given an award of recovery of Rs. 20,000/- (Rs. Twenty thousand only) with 6 per cent interest from 10-4-1976 till realisation from respondents 1 to 3.

The 3rd respondent is challenging the order on LA. No. 358 of 1981 in this appeal.

3. Learned Counsel for the appellant submitted that the appellant paid the entire amount as per the original award and it was thereafter that the correction was allowed. Learned Counsel submitted that the order amounted to review and the Tribunal had no power to review its order. It was further submitted that a party is not entitled to claim interest, since the awarding of interest is discretionary.

According to learned Counsel, Section 152 of the C.P.C. is not applicable in this case, since the Motor Accidents. Claims Tribunal is not a court. According to learned Counsel, in the absence of specification of the date from which interest is to run, it has to be taken that interest will run only from the date of award.

4. Learned Counsel for the claimant submitted that the appellant being the insurance company, the only contentions available to it are u/s 96(2) of the Motor Vehicles Act. The omission to mention the date from which interest is to run is only an accidental slip liable to be corrected u/s 152 of the CPC.

5. Awarding of interest is governed by Section 110CC. Under that Section the Tribunal is empowered to grant interest at such rate and from such date not earlier than the date of making the claim as it may specify. The original award obviously did not specify the date from which interest is to run. The same Tribunal which passed the award, in the order in the above said I.A., held that it was only an accidental omission. The contention that the Tribunal is not a court and it has no power u/s 152 of the CPC need not be decided in this case. This Court in various decisions has held that principles in the CPC will have to be followed by Tribunals unless it is specifically excluded by statute. See K.V. Aboo Vs. Commissioner for Workmen's Compensation and Another, , Cheru Ouseph v. Kunjipalhumma 1981 KLT 495, Mohammed v. Chakkappan 1983 KLT 854 and Abdulla v. Rent Controller 1984 KLT 865. See also the judgment of the Madhya Pradesh High Court reported Jainab Bai and Others Vs. Madhya Pradesh State Road Transport Corporation and Another, we are in respectful agreement with the abovesaid judgments.

6. The non-mention of the date from which interest is to run is clearly an accidental slip or omission and the Tribunal was perfectly justified in correcting the award by inserting the date from which interest in to run. There is no merit in this appeal. The appeal is dismissed. However, there will be no order as to costs.