

Rixy Justy vs a.P Lowerance

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Court : Kerala

Decided On : Dec-22-2023

Judge : Honourable Mr.Justice Ziyad Rahman a.a.

Appeal No. : MACA/1324/2016

Appellant : Rixy Justy

Respondent : A.P Lowerance

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.
FRIDAY, THE 22ND DAY OF DECEMBER 2023 / 1ST POUSHA, 1945
MACA NO. 1324 OF 2016 AGAINST THE ORDER/JUDGMENT OPMV
256/2011 OF MOTOR ACCIDENT CLAIMS TRIBUNAL
,PERUMBAVOOR APPELLANT/PETITIONER: RIXY JUSTY W/O.
JUSTY SEBASTIAN, PADAYATTIL HOUSE, NAYATHODE P.O.,
KAVARAPARAMBU, ANGAMALY. BY ADV SRI.A.N.SANTHOSH
RESPONDENT/RESPONDENTS 2 AND 3: 1 A.P LOWERANCE
BROADWAY AUTO SERVICE, MAIN ROAD, CHALAKKUDY-680307. 2
THE MANAGER UNITED INDIA INSURANCE COMPANY LTD.,
SREEKUMAR BUILDINGS, P.B.NO.1, SOUTH JUNCTION,

CHALAKKUDY-680307. BY ADVS. SRI.P.JINISH PAUL SRI.P.K.MANOJKUMAR,SC,UNITED INDIA INSU THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR ADMISSION ON 22.12.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: M.A.C.A No. 1324 of 2016

JUDGMENT

This appeal is arising from an award passed by the Motor Accidents Claims Tribunal, Perumbavoor in O.P.(M.V) No. compensation for the injuries sustained to her in a motor accident that occurred on 28.12.2010. The amount of compensation claimed by the appellant was Rs.10,00,000/-. The Tribunal awarded an amount of Rs.7,77,524/- as compensation and the 2nd respondent/Insurance Company was directed to deposit the said amount along with interest at the rate of 9% per annum from the date of petition till realisation with proportionate cost. Being dissatisfied with the quantum of compensation this appeal is submitted.

2. Heard, Sri. A.N.Santhosh, the learned counsel appearing for the appellant and Sri. P.K.Manojkumar, the learned counsel appearing for the 2nd respondent/Insurance Company.

3. The appellant as well as the 2 nd respondent have filed a

joint statement, indicating that the matter has been settled and as per the terms of settlement, the 2nd respondent had agreed to M.A.C.A No. 1324 of 2016 settle the claim of the appellant fully and finally by depositing a further sum of Rs.7,50,000/-, inclusive of interest and cost. In the light of the aforesaid settlement and joint statement, this appeal is disposed of, modifying the award dated 30.09.2015 in O.P.(M.V) No.256/2011 passed by the Motor Accidents Claims Tribunal, Perumbavoor, by granting an additional compensation of Rs. 7,50,000/-(Rupees seven lakhs fifty thousand), inclusive of interest and cost to the appellant herein, and the said amount shall be deposited by the 2nd respondent/Insurance Company within a period of two months from the date of receipt of a copy of this judgment, failing which, the said amount will carry interest at the rate of 8% per annum from the date of default. The joint statement will form the part of this

judgment. Sd/- ZIYAD RAHMAN A.A JUDGE rpk BEFORE THE HONOURABLE HIGH COURT OF KERALA AT ERNAKULAM M.A.C.A.No. 1324 of 2016 Rixy Justy Appellant Vs. A.P. Lowerance & another Respondents 40quT STArml EHT mA3D mr TIIE AREELAm A)ro TIP and REsporo RT

1. The above appeal is filed against the award in OP (MV)

No.256/2011 which was disposed of by the Motor Accidents Claims Tribunal, Perumbavoor by award dated 30/9/2015. The original petition is filed by the appellant claiming compensation in respect of the personal injuries sustained by her in a road traffic accident occurred. On 28/12/2010 at about 3.00 pm while the appellant was travelling as a passenger in a car bearing No. KL41-D-2409 through Aluva-Paravur road and when the vehicle reached near Mariyapady, a lorry bearing No. KL-08-N-264 came in a rash and negligent manner and hit upon the car. As a result of the accident the appellant as well as other passengers in the car sustained serious injuries. The Tribunal had granted Rs. 7,77,524/- as compensation along with interest @ 9% p.a. from the date of claim petition. It is challenging the quantum of compensation that the above appeal is filed. Since the respondent had admitted the coverage of the insurance policy in respect of the Offchdir8+ veriiTde:Ttri{:Lt &riin&t -fai"frig3 compensation is On the 2nd respondent. Hence the settlement is arrived at between the appellant and the 2nd respondent. Appeal hit : RtryJufty a

2nd Respondent: United India Insurance Company Ltd For UNITED INDIA INSURANCE C.O. LTD. tr+pr Athorlsed Signfty

2. The appellant above named and the 2nd respondent have

negotiated the matter out of court and willingly arrived at a compromise settlement in full and final settlement of all the claims of the appellants against the 2nd respondent arising out of the accident and the original petition mentioned above. It is agreed that the respondent insurance company shall pay an additional amount of Rs. 7,50,000/- (Rupees Seven Lakh Fifty Thousand Only) inclusive of all interest and cost to the appellant by way of full and final settlement of all the claims of the appellant against the 2nd respondent.

3. The respondent hereby agrees to deposit the above amount

before the Tribunal within a period of 2 months from the date of receipt of a copy of the judgment from the Honble High Court, in case of default as stated above the 2nd respondent is liable to pay interest @ 8% from the date of default.

4. There is no threat coercion or undue influence in arriving at the above settlement. This settlement will form part of the judgment of the Honble High Court of Kerala.

Dated this the 7th day of December, 2023 Appellants : RtryJusfy En FO,uNiTEDINoiAiNsuRANCEco.LTD. 2nd Respondent: United India Insurance Compa EIEEE Authorised Counsel for the Appellants .;i ..' -i A-`j. i,Ji+ I-;,d, ,hi,t'j81; i.,n::"!L! i=-.,i !,r,!r . , - i 'f,; ,

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