

National Insurance Co. Ltd. Vs. Vasanthara Amma

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Court : Kerala

Decided On : Jun-04-1991

Reported in : I(1992)ACC200; 1992ACJ250

Judge : Varghese Kalliath and; G.H. Guttal, JJ.

Appeal No. : M.F.A. No. 429 of 1986

Appellant : National Insurance Co. Ltd.

Respondent : Vasanthara Amma

Advocate for Def. : G. Krishnakumari and; Prasad Mathew, Adv.

Advocate for Pet/Ap. : S.K. Brahmanandan, Adv.

Disposition : Appeal dismissed

Judgement :

Varghese Kalliath, J.

1. This is an appeal by the insurance company against an award in O.P. (MV) No. 58 of 1985 on the file of the Motor Accidents Claims Tribunal, Quilon. The only point pressed before us by the appellant is that the insurance company's liability is limited to Rs. 50,000/-. Now the award is for Rs. 1,52,250/- with 6 per cent interest from 2.8.1979 and the direction in the award is to recover the amount' from the insurance company. Claimant made a statement that the vehicle involved in the accident was under insurance cover and that the insurance company is liable to pay the compensation awarded.

2. The insurance company, though appeared, did not take a specific plea in its written statement that the liability of the insurance company is a limited liability. Counsel for the appellant submitted that before the Tribunal the insurance company had produced a copy of the policy. It has not been marked. Though it has not been marked, we have examined that copy. It has to be remembered that under Section 2(5) of the Insurance Act, 1938 'certified' is defined. 'Certified' is defined as 'certified in relation to any copy or translation of a document required to be furnished by or on behalf of an insurer or a provident society as defined in Part III means certified by a principal officer of such insurer or provident society to be a true copy or a correct translation, as the case may be'. When we examined the copy of the insurance policy produced before the Tribunal it is seen that the requirements under Section 2(5) of the Insurance Act have not been complied with. It is not signed by any of the officers. If the insurance company was to produce a certified copy of the insurance policy as per the provisions of the Insurance Act, it must comply with the particular provision of the Act, viz., Section 2(5) of the Insurance Act. The copy of the insurance policy has to be certified by a principal officer. It has to be shown in the copy produced, otherwise the Tribunal cannot accept it. Perhaps, that may be the reason for not marking this document by the Tribunal.

3. We do not want to make any comment on the conduct of the insurance company in not taking proper attention in this matter. The insurance company, in certain cases, will be made liable for more amount than what they are liable to pay. This may be one of the instances. Since no specific plea has been taken and no copy of the insurance policy has been produced, we see no merit in the appeal and it is only to be dismissed. We do so.

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