

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 4391 OF 2007

MOTILAL (D) BY LRS. & ORS. Appellant (s)

VERSUS

MOHANLAL & ORS. Respondent(s)

(With appln(s) for directions and with office report)

Date: 03/03/2011 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MARKANDEY KATJU
HON'BLE MRS. JUSTICE GYAN SUDHA MISRA

For Appellant(s) Mr. Niraj Sharma,Adv.

For Respondent(s) Mr. Puneet Jain, Adv.
Mr. Anil Kumar Verma, Adv.
Ms. Trishna Mohan, Adv.
Ms. Pratibha Jain,Adv.

Mr. K.L. Nandwani, Adv.
Mr. Debasis Misra ,Adv.

Rr-Ex-Parte

UPON hearing counsel the Court made the following
O R D E R

The Appeal is allowed and disposed of in terms of the
directions given in the signed order.

(Rajesh Dham)
Court Master

(Indu Satija)
Court Master

(signed order is placed on the file)
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(s). 4391 OF 2007

MOTILAL (D) BY LRS. & ORS. Appellant (s)

VERSUS

MOHANLAL & ORS. Respondent(s)

O R D E R

Heard learned counsel for the appellants and respondent

Nos. 1 and 4. As per Office Report dated 9th February, 2011
respondent No. 2 has been served with notice but has not
chosen to enter appearance. Prayer for deletion of
respondent No. 3 was allowed by this Court on 23.11.2006.

This Appeal, by special leave, has been filed by the
claimants-appellants against the Order dated 07.10.2004
passed by the High Court of Madhya Pradesh, Bench at Indore,
in Letters Patent Appeal No. 89 of 1997 by which it was held
that the Letters Patent Appeal at the instance of the
appellants-claimants is not maintainable.

The circumstances giving rise to this Appeal are
somewhat peculiar in the sense that the appellants-claimants
preferred an appeal in the High Court against the award

:1:

CIVIL APPEAL NO(s). 4391 OF 2007

passed by the Motor Accident Claims Tribunal (for short 'the
Tribunal') for enhancement of compensation and the High
Court was pleased to enhance the compensation upto a sum of
Rs. 75,000/-. Thereafter, the respondent No. 4 herein-New
India Assurance Company filed a Special Leave Petition
(Civil) No. 562/2001 [C.C. No. 8641 of 2000] before this
Court which was dismissed as withdrawn on 03.01.2001 but in
view of the submission of learned counsel for the
petitioner-New India Assurance Company (respondent No. 4 in
this Appeal) to the effect that the Assurance Company was
liable to pay only to the extent of Rs. 10,000/- as per the
insurance policy, it was left open to the Assurance Company
to file a review petition before the High Court in that
regard.

In pursuance to the aforesaid liberty, the Assurance
Company filed a review petition in the High Court bearing
MCC No. 58 of 2001 which was allowed and the order dated
23.06.2000 passed in Letters Patent Appeal No. 89 of 1997

was recalled. The said Letters Patent Appeal was then directed to be listed before the Division Bench for hearing and decision afresh. The Division Bench of the High Court, instead of entering into the question whether the learned

:2:

CIVIL APPEAL NO(s). 4391 OF 2007

single Judge was correct or not in allowing the review petition which was confined to the liberty granted by this Court in the aforesaid Special Leave Petition (Civil) No. 562/2001 [C.C. No. 8641 of 2000], was pleased to hold that the Letters Patent Appeal preferred by the claimants-appellants was not maintainable. However, the Division Bench completely missed that the order which was earlier passed by the learned single Judge in favour of the appellants-claimants and which was confirmed upto this Court, obviously stood maintained since Special Leave Petition (Civil) No. 562/2001 [C.C. No. 8641 of 2000] preferred in this Court by respondent No. 4 in this Appeal-New India Assurance Company against the same had been dismissed.

Thus a chequered history of this litigation manifestly makes it clear that the award passed by the Tribunal which was enhanced by the High Court earlier to the extent of Rs. 75,000/- already stands confirmed upto this Court and the High Court has merely held in the Review Petition that the liability of the Assurance Company is confined to a limit of Rs. Ten Thousand only. In that view of the matter, it was not open for the Division Bench of the High Court to enter into the question of maintainability of the Letters Patent Appeal and dismiss it summarily overlooking the fact

:3:

CIVIL APPEAL NO(s). 4391 OF 2007

that the order passed earlier by the High Court enhancing compensation upto Rs. 75,000/- was confirmed upto this Court (Supreme Court) and the liberty left to respondent No. 4

herein-New India Assurance Company was only to a limited extent. The Division Bench, therefore, ought to have clarified this aspect in the impugned order.

In that view of the matter, we direct the respondent-New India Assurance Company to make the payment to the appellants herein in pursuance to the award which had been enhanced in their favour upto the extent of Rs. 75,000/- by the High Court after deducting the amount already paid.

Learned counsel for the respondent-New India Assurance Company, however, has submitted that this Court should grant liberty to realise this amount from the owner of the vehicle in question as according to the order passed in the review petition by the High Court, the liability of the respondent-New India Assurance Company was only to the extent of Rs. 10,000/-. However, we cannot entertain this prayer in this Appeal as this relief cannot be granted in an Appeal which has been preferred by the appellants-claimants and not by the respondent-New India Assurance Company since the respondent-New India Assurance Company has not preferred any cross-appeal against the impugned order. Hence, we see no

:4:

CIVIL APPEAL NO(s). 4391 OF 2007

justification to allow this prayer in so far as this Appeal is concerned.

In the result, this Appeal is allowed and disposed of in terms of the directions given hereinabove. No costs.

.....J.
(MARKANDEY KATJU)

NEW DELHI;
MARCH 03, 2011

.....J.
(GYAN SUDHA MISRA)

:5: