

IN THE SUPREME COURT OF INDIA**CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO(S). 4984-4985 OF 2022
(Arising out of S.L.P.(C)No(s).8238-8239 of 2020)

T. THIMMANNA**... Appellant(s)****Versus****UNITED INDIA INSURANCE
CO. LTD. & ANR.****... Respondent(s)****ORDER**

(1) Leave granted.

(2) These appeals are directed against the judgment and order in M.F.A No.5499/2017 and M.F.A. No.5889/2017 dated 20.02.2020 whereby the High Court of Karnataka at Bangalore has allowed the appeal, M.F.A. No.5499/2017 filed by the respondent-Insurance Company, by setting aside the Award dated 15.04.2017 of the Small Causes and Motor Accident Claims Tribunal at Bengaluru (for short 'the Tribunal') and dismissed the appeal, M.F.A. No.5889/2017 filed by the appellant seeking enhancement of compensation. The High

Court has imposed cost of Rs.50,000/- on the appellant while allowing M.F.A. No.5499/2017.

(3) It is the case of the appellant that on 22.03.2015 at about 07:00 p.m. he was riding TVS Star City motorcycle bearing No.KA-50-R-7042 on the left side of Brahmassandra-Shivanaiahna Paalya road. When he reached certain point on this road, a motorcycle bearing No.KA-06-EP-1468 came from the opposite side at high speed and dashed against the motorcycle of the appellant. As a result, he fell down from his vehicle and sustained grievous injuries. Immediately, he was taken to a nearby general hospital where he was given first aid treatment and thereafter shifted to M.S. Ramaiah Hospital, Bengaluru, wherein he was treated as an inpatient. He claimed a total sum of Rs.40,00,000/- (Rupees Forty Lakhs) before the Tribunal towards the compensation for the injuries sustained by him in the accident.

(4) The respondents entered appearance and filed their objections before the Tribunal. The parties led their evidence. The Tribunal on appreciation of the materials on record held that the accident had occurred on account of the negligent riding of the motorcycle by the rider of the motorcycle bearing No.KA-06-EP-1468. The Tribunal awarded a total compensation of Rs.24,72,072/- with interest at the rate of 9% per annum from the date of filing of the petition till

realization.

(5) As notice above, the appeal filed by the respondent-Insurance Company has been allowed by the High Court. The appeal filed by the appellant seeking enhancement of compensation has been dismissed.

(6) We have heard learned counsel for the parties and perused the materials placed on record.

(7) The Tribunal had framed the following issue pertaining to the question of accident:

“1. Whether the petitioner proves that he met with a motor vehicle accident on 22.03.2015, at about 07:00 p.m., near Brahmsandra Village, Sira Taluk, Tumkur and sustained grievous injury due to the rash and negligent riding of the rider of the Bajaj Discovery Motor Cycle bearing registration No.KA-06-EP-1468?”

8) F.I.R. was marked in the evidence of the claimant as Ex.P1 which gives the date of the incident as 22.03.2015. It is true that the complaint, Ex.P2, was lodged on 25.03.2015. There was a delay of three days in lodging the complaint. PW-1 has categorically stated that immediately after the accident, the injured was shifted to the nearest hospital for his treatment. As he was subsequently shifted to M.S. Ramaiah Hospital, Bengaluru, there was no chance for him to lodge the complaint soon after the incident. It is also stated that after

knowing about the accident, his son also went to the hospital along with the injured and admitted him there. The appellant was an in-patient in the hospital for a very long period. It is not uncommon that when a person is injured, his relatives would remain anxious about the safety of the injured rather than lodging the complaint. Ex.P7 issued by M.S. Ramaiah Hospital reveals the history of the injury. The other documents coupled with the evidence led by the appellant before the Tribunal clearly show that the delay in filing the complaint was not intentional. In our view, a well-reasoned judgment of the Tribunal has been set aside by the High Court on certain assumptions and surmises. In view of the above and having regard to the facts and circumstances of the case, the High Court was not justified in reversing the judgment of the Tribunal while allowing M.F.A. No.5499/2017. We are also of the view that the award of compensation by the Tribunal is just and proper. Therefore, the High Court justified in dismissing M.F.A. No.5889/2017.

(9) Resultantly, the appeal No 4984 /2022 (Arising out of S.L.P. (C) No.8238 of 2020) succeeds and is accordingly allowed. The judgment of the High Court in M.F.A. No.5499/2017 impugned herein, is set aside and the Judgment and Award of the Tribunal dated 15.04.2017 is restored. Consequently, cost of Rs.50,000/- imposed by the High

Court on the appellant is waived off. Appeal No. 4985/2022 (Arising out of S.L.P. (C) No.8239 of 2020) accordingly stands disposed of.

(10) We direct respondent-Insurance Company to deposit with the Tribunal the amount of compensation, if not already deposited, as awarded by the Tribunal with accrued interest thereon within a period of four weeks from today. No costs.

.....**J.**
(S. ABDUL NAZEER)

.....**J.**
(J.K. MAHESHWARI)

New Delhi;
JULY 28, 2022.

ITEM NO.13

COURT NO.6

SECTION IV-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 8238-8239/2020

(Arising out of impugned final judgment and order dated 20-02-2020 in MFA No. 5499/2017 20-02-2020 in MFA No. 5889/2017 passed by the High Court of Karnataka at Bengaluru)

T. THIMMANNA

Petitioner(s)

VERSUS

UNITED INDIA INSURANCE CO.LTD. & ANR.

Respondent(s)

Date : 28-07-2022 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S. ABDUL NAZEER
HON'BLE MR. JUSTICE J.K. MAHESHWARI

For Petitioner(s) Mr. Rohan Thawani, Adv.
Ms. Pooja Dhar, AOR
Mr. Pratul Pratap singh, Adv.
Mr. Mantavya Sharma, Adv.

For Respondent(s) Mr. Rajesh Kumar Gupta, AOR

UPON hearing the counsel the Court made the following
O R D E R
Leave granted.

Civil Appeal No 4984 /2022 (Arising out of S.L.P. (C) No.8238 of 2020)

The appeal is allowed in terms of the signed order.
Pending applications, if any, also stand disposed of.

Civil Appeal No. 4985/2022 (Arising out of S.L.P. (C) No.8239 of 2020)

The appeal is disposed of in terms of the signed order.
Pending applications, if any, also stand disposed of.

(NEELAM GULATI)
ASTT. REGISTRAR-cum-PS

(KAMLESH RAWAT)
COURT MASTER (NSH)

(Signed order is placed on the file)