SUPREME COURT OF INDIA

Maitri Koley

Vs.

New India Insurance Co.Ltd.

(S.N. Variava and H.K. Sema JJ.)

04.11.2003

JUDGMENT

S.N. Variava, J.

1. This Appeal is against a Judgment of the High Court dated 20th July, 1994.

2. Briefly stated the facts are as follows:

> "On 1st April, 1986 there was an accident which resulted in the death of one Shri Amalendu Koley. The Appellants, who are the wife and the minor child of the deceased, filed a claim before the Motor Accidents Claims Tribunal. After evidence the Tribunal found that the accident occurred due to rash and negligence driving of the driver. The Tribunal awarded compensation of Rs. 1,15,000/- for the loss of dependency and Rs. 35,000/- as general damages, The Tribunal directed payment of interest at the rate of 12% per annum. The Tribunal held that the liability of the insurance Company was limited under the Motor Vehicles Act to Rs. 50,000/-. The Tribunal held that the balance would have to be paid by the owner of the vehicle."

3. The Appellants filed an Appeal in the High Court which has been disposed of by the impugned Judgment. The High Court has held that, over and above the amounts awarded by the Tribunal, another sum of RS. 5,000/- was to be paid to the Appellants for funeral expenses. The High Court thus increased the award by a sum of Rs. 5,000/-. The High Court granted interest at the rate of 12% per annum from the date of the Judgment of the High Court.

4. On behalf of the Appellants it is contended that the Tribunal had applied a wrong multiplier. It was submitted that on the date the Tribunal gave the award the Motor Vehicles Act, 1988 had already come into force. It was submitted that the schedule for payment of compensation should have been applied. It was submitted that the multiplier should have been 16. We are unable to accept the submission. It has been held by this Court in the case of Padma Srinivasan v. Premier Insurance Co. Ltd., that the law prevailing on the date of the accident has to apply. On the date of the accident the 1988 Act had not come into force. Under the old Act there was no schedule. Thus the multipliers then being applied were on the

basis of ratio laid down by this Court in various cases. It could not be said that the multiplier of 14, which was applied, was unreasonable.

5. It was next submitted that the liability of the Insurance Company could not have been limited to a sum of Rs. 50,000/-. It was pointed out that the Tribunal and the High Court fell in error in concluding that the liability was restricted to the sum of Rs. 50,000/-under Section 95(2) of the *Motor Vehicles Act, 1939*. We find that in 1982 Section 95(2) had been amended to increase the liability of the Insurance Company to Rs. 1,50,000/-. Thus, on the date of the accident the liability of the Insurance Company was Rs. 1,50,000/-There was thus no justification for restricting the liability of the Insurance Company to only Rs. 50,000/-.

6. No other point was urged before us. We therefore dispose of this Appeal with the clarification that the liability of the Insurance Company will not be restricted to a sum of Rs. 50,000/- but that the insurance Company would be liable to pay up to a sum of Rs. 1,50,000/- with interest thereon. There will be no order as to costs.