

Gujarat High Court

Chhatrasinh vs Present on 13 May, 2010

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Gujarat High Court Case Information System

Print

CRA/350/2001      3/ 3      JUDGMENT

IN  
THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL  
REVISION APPLICATION No. 350 of 2001

For  
Approval and Signature:  
HONOURABLE  
MR.JUSTICE M.R. SHAH

=====

1

Whether

Reporters of Local Papers may be allowed to see the judgment ?

2

To

be referred to the Reporter or not ?

3

Whether

their Lordships wish to see the fair copy of the judgment ?

4

Whether

this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5

Whether

it is to be circulated to the civil judge ?

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CHHATRASINH

GABABHAI PARMAR - Applicant(s)

Versus

RAMANBHAI  
ZAVERBHAI SOLANKI & 2 - Opponent(s)

=====  
Appearance

:

MR SK

BUKHARI for

Applicant(s) : 1,

NOTICE SERVED for Opponent(s) : 1 - 2.

RULE

SERVED for Opponent(s) : 1 - 2.

RULE NOT RECD BACK for Opponent(s)

: 3,

MR AJAY R MEHTA for Opponent(s) :

3,  
=====

CORAM

:

HONOURABLE

MR.JUSTICE M.R. SHAH

Date

: 13/05/2010

ORAL

JUDGMENT

1. Present Revision Application under Section 115 of the Code of Civil Procedure has been preferred by the petitioner herein original claimant to quash and set aside the impugned judgment and award dated 18th August 2000 passed by the Motor Accident Claims Tribunal (Main), Panchmahal, Gohara in Motor Accident Claim Petition No.1711/1993 in so far as it rejected the claim of the petitioner with respect to the interest from the insurance company from the date of application and to hold that does the petitioner is entitled to recover the amount of award alongwith 12% interest per annum from the date of application till realization from all the respondents including the insurance company as all the respondents are jointly and severally liable.

2. That the petitioners herein original claimants have preferred MACP No.1711/1993 for claiming the compensation of Rs.9999/- for the injuries suffered by him in the vehicular accident which took place on 23.06.1993. That the learned Tribunal by its impugned judgment and order dated 18th August 2000 partly allowed the said application directing the respondents to pay the compensation of Rs.7000/- with interest at the rate of 12% per annum from the date of petition till realization. However, so far as the respondent No.3 insurance company is concerned, the learned Tribunal passed the order that the respondent No.3 insurance company is liable to pay the interest from the date of 1st August 1999 till its realization as the insurance company was joined as a party respondent on 01.08.1999. Being aggrieved and dis-satisfied with the impugned judgment and award passed by the learned Tribunal in so far as awarding the interest against the respondent No.3 insurance company from the date of 1st August 1999 instead from the date of application, petitioner has preferred the present Civil Revision Application under Section 115 of the Code of Civil Procedure.

3. Having heard learned advocates appearing on behalf of respective parties and considering the decision of the Division Bench of this Court in the case of Oriental Insurance Co. Ltd. v. Aminaben Rahimbhai Kadiwala reported in 2001(2) G.L.H. 23, it appears that the controversy in the present Revision Application is squarely covered by the aforesaid decision. As held by the Division Bench in the aforesaid decision, even if the insurance company has been impleaded subsequently as a party in the Tribunal, it cannot be absolved by its liability for interest of the intervening period. Under the circumstances, the impugned order passed by the learned Tribunal in holding the respondent No.3 insurance company liable to pay the interest only from 01.08.1999 till its realization, cannot be sustained and deserves to be quashed and set aside.

4. In view of the above, Revision Application is allowed. The impugned judgment and order dated 18.08.2000 passed by the Motor Accident Claims Tribunal (Main), Panchmahal, at Godhara in MACP No.1711/1993 is hereby modified to the extent of holding that the respondent No.3 insurance company is liable to pay interest on the amount of compensation from the date of submitting the MACP till its realization. Petitioner shall be entitled to the differential amount from the respondent No.3 accordingly. Rule is made absolute to the aforesaid extent. No costs.

(M.R.

Shah, J.) \*menon Top