

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No.20927 OF 2017
(Arising out of SLP(C)No.28875 of 2014)

SMT.SHANTHAMMA & ANR.

.....APPELLANTS

VERSUS

UNITED INDIA INSURANCE COMPANY LTD. & ANR.

.....RESPONDENTS

O R D E R

Heard Mr.C.B.Gururaj, learned counsel for the appellants and Mr.Shashank Kumar, learned counsel for respondent No.1.

Delay condoned.

Leave granted.

Having heard learned counsel for the parties, we accept the finding recorded by the High Court that the Insurer is not liable. However, regard being had to the plight of the appellants, who are in a distressed condition, we intend to invoke the policy of pay and recover. We accordingly direct respondent No.1 to deposit the amount, as directed by the Tribunal, if not already deposited, before the Tribunal within twelve weeks hence, which shall be disbursed in favour of the legal representatives of the deceased in accordance with the law laid down in the case of General Manger, Kerala State Road

Transport Corporation, Trivandrum v. Susamma Thomas (Mrs.) & Ors., (1994) 2 SCC 176. Be it clarified that we have invoked the policy of pay and recover in exercise of our jurisdiction under Article 142 of the Constitution of India and if any amount is paid under the head of 'No Fault Policy', the same shall be recovered.

The appeal is accordingly disposed of. No order as to costs.

As a sequel to disposal of the appeal, the application for restoration also stands disposed of.

.....CJI.
(DIPAK MISRA)

.....J.
(A.M.KHANWILKAR)

.....J.
(Dr.D.Y.CHANDRACHUD)

NEW DELHI;
DECEMBER 6, 2017.

ITEM NO.10

COURT NO.1

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).28875/2014

(Arising out of impugned final judgment and order dated 06-02-2013 in MFA No.9414/2008 passed by the High Court of Karnataka at Bangalore)

SMT.SHANTHAMMA & ANR.

Petitioner(s)

VERSUS

UNITED INDIA INSURANCE COMPANY LTD. & ANR.

Respondent(s)

(and IA No.106522/2017-RESTORATION on quo respondent no. 2.)

Date : 06-12-2017 This petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE A.M. KHANWILKAR

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

For Petitioner(s) Mr.C.B.Gururaj, Adv.
Mr.Prakash Ranjan Nayak, Adv.
Mr.K.P.Singh, Adv.
For M/S. Legion Of Lawyers, AOR

For Respondent(s) Mr.Shashank Kumar, Adv.
Mr.Ravi Bakshi, Adv.
Mr. Yash Pal Dhingra, AOR

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

Delay condoned.

Leave granted.

The appeal is disposed of in terms of the signed order. No order as to costs.

As a sequel to disposal of the appeal, the application for restoration also stands disposed of.

(Chetan Kumar)
Court Master

(H.S.Parasher)
Assistant Registrar

(Signed order is placed on the file)