

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S).4612 OF 2017  
(Arising out of SLP(C) No.26255 of 2015)

RAMAMURTHY NOW A MENTALLY  
DERANGED PERSON REP. BY HIS  
NEXT FRIEND, WIFE K. KAMATCHI . . .APPELLANT(S)

VERSUS

NATIONAL INSURANCE CO. LTD. & ANR. . .RESPONDENT(S)

O R D E R

1. Delay condoned.
2. Leave granted.
3. The appellant (Ramamurthy), who is represented by his wife as the claimant, was injured in an accident involving the motorcycle that the claimant was riding which hit a pedestrian (Ramesh) at about 6.30 p.m. on 31.10.2003 in a place near the "Alies Punjabi Dhaba" near Saravanan Steel Rolling Mills. As a consequence of the injuries suffered in the said accident, the claimant became mentally disabled and ultimately is represented in the present proceeding by his wife as the next friend.

4. The learned Motor Accident Claims Tribunal, Sankari (for short, 'the learned Tribunal') after recording a finding that the claimant was not responsible for any rash and negligent act leading to the accident in question thought it proper to grant a total compensation of Rs.30,00,611/- along with interest at the rate of 7.5% from the date of filing of the claim petition.

5. Aggrieved, the Insurer (National Insurance Co. Ltd.) moved an appeal before the High Court.

6. The High Court by the impugned order reversed the decision of the learned Tribunal and dismissed the claim except for an amount of Rs.25,000/-, which was awarded on account of the no-fault liability. Consequently, this appeal has been filed.

7. We have heard the learned counsels for the parties.

8. In the absence of any eye-witness to the accident, the learned Tribunal took into account the totality of the materials on record to come to the conclusion that the portion of

the road where the injured pedestrian (Ramesh) fell and the injuries suffered by him were sufficient to hold that there was no rash and negligent driving of the motorcycle by the appellant-claimant.

9. The High Court, in appeal, took into account the F.I.R. filed by the injured pedestrian (Ramesh), on which reliance was placed by the claimant to prove the accident. While relying on the said F.I.R., the High Court took the view that as the appellant-claimant himself has relied on the F.I.R., the entire version of the F.I.R. must be accepted. Inasmuch as in the F.I.R. filed by the injured pedestrian (Ramesh) rash and negligent driving was alleged against the appellant-claimant, the High Court took the view that the appellant-claimant had admitted the contents of the F.I.R., including the allegation of rash and negligent driving contained therein.

10. We fail to see as to how the High Court could come to the aforesaid conclusion and/or placed reliance on the F.I.R. as a

substantive piece of evidence. The facts discussed by the learned Tribunal in coming to its conclusion, as noted above, were also not adverted to by the High Court in the impugned order.

11. In view of the reasoning adopted by the High Court in reversing the award passed in favour of the appellant-claimant with which we disagree, we are of the view that the order of the High Court should be set aside and the award passed by the learned Tribunal ought to be restored. We order accordingly and direct that the award of passed by the learned Tribunal, if not already implemented, all amounts due thereunder be now paid to the appellant-claimant along with interest at the rate awarded till the date of payment.

12. The order of the High Court is set aside. The appeal is consequently allowed as indicated above.

.....,J.  
(RANJAN GOGOI)

.....,J.  
(NAVIN SINHA)

NEW DELHI  
MARCH 30, 2017

