

ITEM NO.1 Court 2 (Video Conferencing)

SECTION XI-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

SPECIAL LEAVE PETITION (CIVIL)Diary No(s).28549/2020

(Arising out of impugned final judgment and orders dated 24-07-2019 and 17.02.2020 in MACA No.1913/2012 passed by the High Court of Kerala at Ernakulam)

ICICI LOMBARD GENERAL INSURANCE COMPANY

Petitioner(s)

VERSUS

M.D. DAVASIA @ JOSE & ANR.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.15502/2021-CONDONATION OF DELAY IN FILING and IA No.15505/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 11-02-2021 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N.V. RAMANA
HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE ANIRUDDHA BOSE

For Petitioner(s) Mr. Rana Mukherjee, Sr.Adv.
Mr. Nagesh, Adv.
Ms. Daisy Hannah, Adv.
Mr. Shekhar Kumar, AOR

For Respondent(s)

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

The Court is convened through Video Conferencing.

Having heard learned counsel for the petitioner and carefully perusing the material placed on record, we see no reason to interfere with the impugned order dated 17.02.2020 passed by the High Court of Kerala in MACA No. 1913 of 2012 whereby the High Court upheld the compensation granted by the Motor Accident Claims Tribunal, Kottayam (for short, 'the Tribunal') in favour of the injured respondent.

.....2/-

However, learned counsel for the petitioner raised a legal issue by stating that the Tribunal does not possess any authority to award any costs as incidental to its power over the parties or the subject matter of the litigation, and the Tribunal being constituted under a special enactment is to be governed solely by the provisions of the Motor Vehicles Act, 1988. Learned counsel also quoted paragraph 8 of the impugned order dated 17.02.2020 passed by the High Court of Kerala in MACA No. 1913 of 2012, which is reproduced below:

"The question that arises for determination before us is whether in the matter of awarding costs, the procedure and rules framed under the Constitution, CPC and the Rules made thereunder, for 'Courts', could be resorted to by the Claims Tribunal which is apparently, not a 'Court'."

In view of the aforesaid, only to the limited extent of examining the legal issue raised by the learned counsel for the petitioner, we are inclined to entertain these special leave petitions.

For proper adjudication of the legal issue involved in these petitions, we appoint Mr. N.Vijayaraghavan, Advocate, as an *amicus curiae* to assist the Court.

The Registry is directed to supply a copy of the petition to the learned *amicus*.

Post these special leave petitions after eight weeks on a non-miscellaneous day.

We make it clear that the petitioner - Insurance Company will have to pay the compensation to the injured - respondent as awarded by the Tribunal and upheld by the High Court without fail, if not already paid.

(SATISH KUMAR YADAV)
DEPUTY REGISTRAR

(RAJ RANI NEGI)
DEPUTY REGISTRAR