

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 1872/2018  
(ARISING FROM SLP (C) NO.2858/2018)

THE ORIENTAL INSURANCE CO. LTD.

APPELLANT(S)

VERSUS

USHA BHAGCHANDANI & ORS.

RESPONDENT(S)

WITH

C.A. NO.1873/2018 @ SLP(C) NO. 2671/2018

J U D G M E N T

KURIAN, J.

Issue notice.

2. Ms. Vandana Sehgal, learned counsel, appears and accepts notice for the caveator/Respondent No.1, in both the petitions.

3. Heard learned counsel for the parties.

4. Leave granted.

5. Learned counsel appearing for the appellant/Insurance Company has made three

submissions: (i) It is a case of contributory negligence. However despite taking such a contention, no steps have been taken by the respondent(s) to implead the parties related to the vehicle which was parked on the road. (ii) There is no justification in granting additional 30%, after permitting 50% enhancement. (iii) The interest and dependent charges etc. are on higher side.

6. As far as issue no.(i) is concerned, it was for the appellant to take steps before the Tribunal to ensure that the driver, owner and the Insurance Company of the vehicle concerned are brought on the party array. Since that stage in any case is over, it is for the appellant to work out its remedies, if any, available under law in appropriate proceedings. As far as additional 30% is concerned, in the peculiar facts of this case and in the nature of permanent disability to Respondent No.1, we are not inclined to interfere with the addition.

7. However, as far as rate of interest is concerned, we are of the view that the same needs interference, having regard to the peculiar facts of this case. The interest is fixed at 8%.

8. With the above observations and directions, the appeals are disposed of.

9. Pending applications, if any, shall stand disposed of.

10. There shall be no orders as to costs.

.....J.  
[KURIAN JOSEPH]

.....J.  
[MOHAN M. SHANTANAGAUDAR]

NEW DELHI;  
FEBRUARY 13, 2018.