



ORDER

42/19.11.2024

Today is fixed for hearing petition dated 04.10.2024 filed by the O.P./insurance company.

Both the parties have filed their respective haziras.

The petition was supplied to the petitioner/claimant with endorsement of objection.

The petitioner/claimant did not file any written objection but submitted that he will participate in the hearing of the petition.

Let the petition is taken up for hearing.

Ld. Advocate of the O.P./insurance company filed the petition with a prayer for issuance of summons to the three witnesses listed in the petition for the purpose of just decision of the case.

Ld. Advocate for the O.P./insurance Company submitted that the witnesses i.e. the owner of the offending vehicle, the driver of the offending vehicle, and the autopsy surgeon are required to be examined as O.P.W. To reach the just decision of the case. He further stated that the amount of compensation involves public money and therefore proper adjudication is required to reach just decision of the case.

He further submitted that although the argument in the case has already been completed, and as it involves a high amount of compensation, the examination of the said witnesses are required. He further submits that the case involves death of a junior doctor, Post Mortem done by another doctor, the offending vehicle owned by another doctor. Therefore, the examination of the witnesses are required to achieve the truth of the case.

Ld. Advocate for the OP/insurance company submitted that for conducting the case he had to get some approval from the company itself and sometimes such approvals reached to him after some delay and that is why the delay causing in this case. He further submitted that the delay causing in this case is not at all intentional.

Ld. Advocate for the petitioner Clement raised objection and submitted that the instant case is about six years old and the OP/insurance company had availed nine adjournments to adduce witnesses on their behalf in last two years. The argument had already been heard in this case and therefore the instant petition is liable to be rejected in terms of the observation of the Hon'ble Supreme Court published in 2004(3) TAC 1 (SC).

Heard. Perused and considered.

On careful perusal of the record, it appears that the case involves death of a doctor in Raiganj, Post Mortem done by another doctor of Raiganj District Hospital, the offending vehicle owned by another doctor of Barasat, North 24 Parganas which is about 400 km away from the P.O.

The Hon'ble Supreme Court has been pleased to observe in 2004(3) TAC 1 (SC) that the insurance company must not waste enormous time and money of the claimants by hotly contesting the case in the routine manner.

Here in this case, On careful perusal of the record, it appears that the case involves death of a doctor in Raiganj, Post Mortem done by another doctor of Raiganj District Hospital, the offending vehicle owned by another doctor of Barasat, North 24 Parganas which is about 400 km away from the P.O.

Still, this Tribunal finds material in the petition filed by the O.P./insurance company to arrive the just decision of the case. So the petition is liable to be allowed with condition to ensure the presence of the witnesses on the next date positively by the O.P./insurance Co.

In view of the above, the petition is allowed.

Fix 05.02.2025 for O.P.W.

The O.P./insurance company is directed to take necessary step for ensuring presence of the witnesses on the next date positively.

Dictated & Corrected

Date: 19-11-2024
Judge, MAC Tribunal
FTC-II, Raiganj,
Uttar Dinajpur

(Manik Lal Jana) (WB01023)
Judge, MAC Tribunal
ADJ FTC-II, Raiganj,
Uttar Dinajpur

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