

Present : Smt. Rupanjana Chakrabarti,
Additional District Judge, 7th Court, Paschim Medinipur,
J.O Code : WB00612

MACC 42 of 2019
R 43 of 2019, CNR : WBWM01-000989-2019

Order No. 29
Date 30-11-2023

The petitioners file hazira.

Hazira is filed on behalf of the O.P No. 2.

An application u/s 170 of the Motor Vehicle Act ("the M.V. Act for short") is filed on behalf of the O.P No. 2. By filing the petition the O.P No. 2 has prayed for leave of this Tribunal to contest the claim case on merit and take all defenses available to O.P / registered owner of the vehicle. Copy served.

The petition is taken up for hearing at the instance of both sides.

This is a motor accident u/s 166 of the M.V. Act. The claim is directed against the O.P No. 1 i.e insured. The O.P No. 2 is the insurer. But the insured has not opted to contest the claim though he has filed a written statement. No serious and sincere effort has been made in the written statement to defeat the claim. In such circumstances, I am of the firm view that the insurer must be allowed to contest the claim on merit.

Hence, the application u/s 170 of the M.V Act filed by the O.P No. 2 is allowed without costs. The O.P No. 2 is permitted to contest the claim case on merit and take all defenses against the case as available.

Today is fixed for evidence of petitioner No. 1 Batasi Mahata.

The petitioner No. 1 Batasi Mahata is examined and cross examined in full on oath as P.W-1 and discharged.

The following documents are admitted into evidence by marking exhibits :

The certified copies of formal FIR and written complaint are marked as Ext. 1 and 1/1 respectively, the certified copy of charge sheet is marked as Ext. 2, the certified copies of seizure lists are marked as Ext. 3 and 3/1 respectively, the true copy of P.M report is marked as Ext. 4, the death certificate of the deceased is marked as Ext. 5, the voter identity card of the deceased is marked as Ext. 6, the voter identity cards of the claimants are marked as Ext. 7 series, the two birth certificates of the minor daughters are marked as Ext. 8 series, the xerox copy of the insurance policy is marked as Ext. 9 on consent, the salary certificate is marked as 'X' for identification, the three permits of concerned bus is marked as Ext.- 10 series (objected to) and the xerox copy of R.C Book is marked as 'Y' for identification.

No other witness is present.

By filing a petition the petitioners seek time to adduce further evidence.

Heard. Considered. Prayer is allowed. The case is adjourned today.

Fix 07-02-2024 for evidence of petitioner No. 1 Batasi Mahata.

Dictated and Corrected by me

Judge, Claims Tribunal
Additional District Judge
7th Court, Paschim Medinipur.

Judge, Claims Tribunal
Additional District Judge,
7th Court, Paschim Medinipur.

