

IN THE HIGH COURT OF JHARKHAND AT RANCHI

M.A. No. 694 of 2018

.....

New India Assurance Co. Ltd.

... ..APPELLANT

-V e r s u s -

Shyamapada Shaw & Anr.

... .. RESPONDENTS

.....

CORAM: - THE HON'BLE MR. JUSTICE DR. S.N.PATHAK

For the Appellant

: Mr. Alok Lal, Advocate

For the Respondent-Claimant

: Mr. Atanu Banerjee, Advocate

Mr. J.N. Upadhyay, Advocate

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I.A. No. 10357 of 2018

06/ 12.09.2022 The instant Interlocutory Application has been filed under Section 5 of the Limitation Act to condone the delay of 108 days in filing the appeal.

Learned counsel for the appellant submits that the delay was neither intentional nor deliberate, rather it happened due to compelling circumstances. He further submits that if the instant petition is not allowed and the delay is not condoned, the appellant shall suffer irreparable loss and injury.

Learned counsel for the respondents does not object the same.

Having heard the learned counsel for the parties and on being satisfied with the grounds taken in para Nos. 6 onwards of the instant Interlocutory Application, the delay of 108 days in filing instant appeal is hereby condoned.

Accordingly, I.A. No. 10357 of 2018 stands allowed.

I.A. No.8126 of 2022

This instant interlocutory application has been filed for staying the further proceeding in Execution Case No. 26 of 2019 arising out of Award/order dated 23.04.2018 passed in Compensation Case No.227 of 2016, during the pendency of this appeal.

Learned counsel for the appellant submits that vide Award dated 23.04.2018 passed in Compensation Case No.227 of 2016, the learned Tribunal has allowed the application in favour of the applicants/claimants and appellant-Insurance Company was directed to make payment of the compensation amount of Rs. 8,18,496/- (Rs. Eight Lakhs Eighteen Thousand Four Hundred Ninety Six only) along with interest @ 6 % p.a. from the date of filing of the claim petition. Learned

counsel further argues that the court below has failed to consider the material on record and as such, it is fit and liable to be quashed and set aside. Learned counsel for the appellant, however, submits that appellant is ready to furnish the amount in surety as per the wishes of the Court and as such, he prays for staying the proceeding of the Execution Case.

Learned counsel for the respondents-claimants submits that till date they have not received a single penny.

In view of the above submission and statement made in the instant interlocutory application, further proceeding in Execution Case No. 26 of 2019 arising out of Award/order dated 23.04.2018 passed in Compensation Case No.227 of 2016 shall remain stayed till further orders, subject to condition that the appellant will deposit 50 % of the total awarded amount by the learned Tribunal, in form of bank drafts/cheques, in the Court below concerned, within a period of six weeks' from today.

The Court below is directed to release the same to the respondent/claimant on proper identification on their furnishing undertaking on the terms and conditions and bank guarantee, which the Court below deems fit and proper to impose.

With the aforesaid direction, I. A. No. 8126 of 2022 stands disposed of.

M.A. No. 694 of 2018

Call for the Lower Court Record from the court concerned.

Put up this case under the appropriate heading after six weeks'.

(Dr. S.N. Pathak, J.)

punit/-