

13.06.2023  
Item No.102  
Court No.654.  
S. De

**F.M.A.T. (MV) 26 of 2023**  
**With**  
**I.A. No. CAN/1/2023**

**Go Digit General Insurance Company Limited.**  
**Vs**  
**Sukla Tewary & Ors.**

Mr. Soumalya Ganguli,  
...for the Appellant.  
Mr. Jayanta Banerjee,  
Mrs. Ruxmini Baran Roy,  
...for the respondents.

Affidavit-of-service filed on behalf of the  
appellant-insurance company is taken on record.

In re : F.M.A.T. (MV) 26 of 2023

This appeal is preferred against the judgment  
and award dated November 17, 2022 passed by the  
learned Additional District Judge cum Judge, Motor  
Accident Claims Tribunal, Fast Track, 3<sup>rd</sup> Court,  
Sadar, Paschim Medinipur in M.A.C. Case No.570 of  
2020 under Section 166 of the Motor Vehicles Act,  
1988.

As per report of the Additional Stamp Reporter  
dated February 22, 2023, the appeal is preferred  
within the statutory period of limitation. Accordingly,  
the appeal is formally admitted and registered.

Call for Lower Court Records.

Mr. Soumalya Ganguli, learned advocate  
appearing for the appellant-Insurance Company

submits that the Insurance Company is willing to deposit Special Messenger's Costs for bringing the Lower Court Records. Accordingly, the appellant-Insurance Company is directed to deposit the Special Messenger's Costs within a period of one week.

Department concerned is directed to take effective steps for bringing the Lower Court Records from the learned Tribunal within a period of two weeks from the date of deposit of the Special Messengers Costs.

Upon receipt of the Lower Court Records, the Office shall examine the same and if found to be complete and in order, shall serve notice of arrival of the Lower Court Records upon the learned advocates for the respective parties.

Mr. Jayanta Banerjee, learned advocate appearing for the respondents-claimants undertakes to prepare informal paper books.

Upon receipt of notice of arrival of Lower Court Records, learned advocate for the respondents-claimants shall prepare and file three sets of informal Paper Books incorporating all relevant papers and documents including the pleadings and evidence, both oral and documentary, in printed or typewritten or cyclostyled form, within a period of four weeks from the date of service of notice of arrival of Lower Court Records.

Mr. Soumalya Ganguli, learned advocate appearing for the appellant/Insurance Company submits for dispensing with service of notice of appeal upon the respondent no.3, owner of the offending vehicle, since he did not contest the claim application. It is found from the impugned judgment that the same has been passed ex parte against the owner of the offending vehicle. In the aforesaid backdrop, service of notice of appeal upon the respondent no.3, owner of the offending vehicle, stands dispensed with.

Since the respondent nos. 1 and 2-claimants have already entered appearance, hence, service of notice of appeal upon the said respondents also stands dispensed with.

In re : I.A. No. CAN 1/2023

This is an application for stay of operation of the impugned judgment and award dated November 17, 2022 passed by the learned Additional District Judge cum Judge, Motor Accident Claims Tribunal, Fast Track, 3<sup>rd</sup> Court, Sadar, Paschim Medinipur in M.A.C. Case No.570 of 2020 under Section 166 of the Motor Vehicles Act, 1988.

By an order dated November 17, 2022, the learned Tribunal granted compensation of Rs.26,29,000/- together with interest under Section 166 of the Motor Vehicles Act.

Mr. Soumalya Ganguli, learned advocate appearing for the appellant-Insurance Company submits that the Insurance Company has already deposited the amount and is ready and willing to deposit the entire awarded sum together with interest less statutory deposit before the learned Registrar General, High Court, Calcutta within such time as would be directed by this Court. On such court, he prays for stay of operation of the impugned judgment and award.

As per report of the Computer Section dated February 6, 2023, no caveat has been lodged.

The Office report dated February 15, 2023, shows deposit of statutory amount of Rs.25,000/- with the Registry of this Court in terms of Section 173 of the Motor Vehicles Act vide challan no.3370, OD dated January 9, 2023.

In view of the readiness and willingness on the part of the appellant-Insurance Company to deposit the entire awarded sum together with interest less statutory deposit, there shall be stay of operation of the impugned judgment and award for a period of four weeks. The appellant-Insurance Company is directed to deposit the entire awarded sum together with interest less statutory deposit before the learned Registrar General, High Court, Calcutta within a period of four weeks from date.

In the event, the appellant-Insurance Company makes deposit of the aforesaid amount, the order of stay shall continue till the disposal of the appeal. In default to make deposit of the aforesaid amount, the order of stay shall stand automatically vacated without reference to this Court.

Learned Registrar General of this Court shall ensure that the amount to be deposited by the appellant-Insurance Company be invested in a short-term auto renewable scheme of any nationalized bank, until further orders.

The application being I.A. No. CAN 1 Of 2023 stands disposed of.

Mr. Jayanta Banerjee, learned advocate appearing for the respondents-claimants submits that his client has also filed an appeal being F.M.A. (M.V.) 129 of 2023 which needs to be listed along with this appeal.

List F.M.A. (M.V.) 129 of 2023 along with this appeal after four weeks.

**(Bivas Pattanayak, J.)**