

03.03.2022
Item No.34
Ct. No.7
AGM

F.M.A. 6/2021
IA NO: CAN/1/2020 (Old CAN 2351 of 2020)

Cholamandalam M/S General Insurance Co. Ltd
Vs.
Smt. Payal Manna & Ors

Mr. Debanjan Mukherjee
...for the appellant/Insurance
Company

Mr. Pingal Bhattacharya,
...for the respondent.

In Re: CAN/1/2020 (Old CAN 2351 of 2020)

The application being CAN/1/2020 (Old CAN 2351 of 2020) is relatable to stay of execution of the award already granted by the Tribunal.

Mr. Debanjan Mukherjee, learned advocate appearing for the appellant/Insurance Company submits that there are good grounds to present in the appeal, and learned Tribunal has erroneously assessed the income of the deceased, ignoring the strong materials disclosed in the cross-examination of witnesses, examined during the trial.

Mr. Pingal Bhattacharya, learned advocate appearing for the respondents/claimants submits that there is no necessity of granting any stay order, as all the papers, required to be dealt with by this

Court are available with him, and the same may be produced at the time of hearing of this appeal.

It is thus strongly contended by the learned advocate for the respondents that in the event of stay being granted, there will be delay caused in the ultimate disposal of this appeal.

In reply, Mr. Debanjan Mukherjee, learned advocate appearing for the appellant/Insurance Company submits that exhibited documents being relied upon by the Trial Court are necessarily to be looked into, without which the appeal may not be disposed of at the moment. It is thus emphasized by Mr. Mukherjee that when executing Court below is trying hard to execute the award, there is chance of making frustration of this appeal.

An urgency is thus focussed, as regards the stay of execution of the award.

In view of the urgency focussed, let there be an order directing stay of execution of award pending in the executing Court below until further order, subject to the condition that the appellant/Insurance Company shall deposit the awarded sum with 6% interest from the date of filing of this claim application before the Registrar General of this Court within three (03) weeks from the date of order. In the event of failure of such deposit with the learned

Registrar General within the period stipulated hereinabove, the stay order granted in the appeal shall automatically stand vacated without making any further reference to the appellant.

The Registrar General is directed to invest the deposited amount in a short term interest earning auto renewal fixed deposit scheme in any of the nationalized bank.

Stay application being CAN 1 of 2020 is thus disposed of.

Let the Lower Court Records be called for through the Special Messenger at the cost of the appellant. Such costs shall be put in by appellant within a fortnight from date.

Immediately, after arrival of the Lower Court Records, office shall examine the same and shall issue notice of arrival of Lower Court Records on the learned advocate for the appellant.

The appellant is directed to prepare and file requisite number of informal paper books printed, typewritten or cyclostyled, as the case may be out of court, within a month from the date of service of notice of arrival of Lower Court Records on the learned advocate for the appellant.

Liberty to mention for inclusion in the list after arrival of the Lower Court Records followed by preparation of the paper books eight weeks after.

Learned advocate for the respondents submits that respondents have filed a separate appeal claiming enhancement of the award being FMAT 251 of 2020 together with another application for expeditious disposal of both the appeals. Both the appeals and the connected applications be heard together.

(Subhasis Dasgupta, J.)