

10.10.2023

Ct. no.654

Sl. no.245

sn

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

**F.M.A.T.(MV)488 of 2023
(CAN 1 of 2023 & CAN 2 of 2023)**

National Insurance Co. Ltd.

Vs.

Aditya Jhunjhunwala & Anr.

Mr. Parimal Kumar Pahari

... for the appellant-Insurance Co.

In Re: CAN 1 of 2023

This is an application for condonation of delay under Section 173 of the Motor Vehicles Act read with Section 5 of the Limitation Act in preferring the appeal.

Mr. Parimal Kumar Pahari, learned advocate for the appellant-insurance company submits that there is delay of 108 days in preferring the appeal.

Appellant-insurance company is directed to serve copy of the application upon the respondents and file affidavit of service on the returnable date.

In Re: CAN 2 of 2023

This is an application for stay of operation of the judgment and award dated 16th January, 2023 passed by the learned Additional District Judge-cum-Judge, Motor Accident Claims Tribunal, Fast Track, 3rd Court, Alipore, South 24 Parganas in MAC case 37 of 2013 under Section 166 of the Motor Vehicles Act, 1988.

By an order dated 16th January, 2023, the learned Tribunal granted compensation of Rs.5,52,000/- together with interest in favour of the claimant under Section 166 of the Motor Vehicles Act, 1988.

Mr. Parimal Kumar Pahari, learned advocate for the appellant-insurance company submits that the Insurance Company has already deposited the statutory 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 period as would be directed by this Court. On such count, he prays for stay of operation of the impugned judgment and award.

As per report of the Computer Section, Appellate Side, High Court, Calcutta 06.09.2023, no caveat has been lodged.

The office report dated 02.09.2023 shows that the insurance company has deposited the statutory amount of Rs.25,000/- with the registry of this Court in terms of Section 173 of the Motor Vehicles Act vide OD challan no.1629 dated 30.08.2023.

In view of readiness and willingness on the part of the appellant-Insurance Company to deposit the entire awarded sum together with interest less statutory amount, there shall be stay of operation of the impugned judgment

and award of the learned Tribunal till 2nd Week of December, 2023.

The appellant-Insurance Company is directed to deposit the entire awarded sum together with interest less statutory amount before the learned Registrar General, High Court, Calcutta within 2nd week of December, 2023.

In the event the appellant-Insurance Company makes deposit of the aforesaid amount, the order of stay shall continue till the disposal of this application. 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 appellant-insurance company is directed to serve a copy of this application upon the respondents and file affidavit of service on the returnable date.

Let the matter appear on 11th December, 2023 under the heading "*Application*".

(Bivas Pattanayak, J.)