

12.10.2023

Ct. no.654

Sl. Nos.231

sn

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

**F.M.A.T.(MV) 563 of 2023
(CAN 1 of 2023)**

**Cholamandalam MS General Insurance Co.Ltd.
Vs.
Suili Sarkar Mandal & Ors.**

Mr. Soumalya Ganguli
Ms. Sudarshana Dutta
... for the appellant-Insurance Co.

In Re: F.M.A.T(MV)563 of 2023

This appeal is preferred against the judgment and award dated 1st June, 2023 passed by the learned Additional District Judge-cum-Judge, Motor Accident Claims Tribunal, Fast Track, 2nd Court, Islampur, Uttar Dinajpur in MAC case no. 178 under Section 166 of the Motor Vehicles Act, 1988.

As per report of the Additional Stamp Reporter dated 26th September, 2023, the appeal is preferred within the statutory period of limitation.

Accordingly, the appeal is formally admitted and registered.

Call for the lower court records.

Department is directed to take effective steps for bringing the lower court records from the learned Tribunal within two weeks from date.

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 advocate for appellant/ insurance company within a period of two weeks of such arrival.

Upon receipt of notice of arrival of lower court records, learned advocate for the appellant-insurance company shall prepare and file requisite numbers 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, as the case may be, out of court, within a period of four weeks from date.

Appellant-insurance company is directed to deposit *talabana* costs together with written up notice form for causing service of notice of appeal upon the respondents.

In Re: CAN 1 of 2023

This is an application for stay of operation of the judgment and award dated 1st June, 2023 passed by the learned Additional District Judge-cum-Judge, Motor Accident Claims Tribunal, Fast Track, 2nd Court, Islampur, Uttar Dinajpur in MAC case no. 178 under Section 166 of the Motor Vehicles Act, 1988.

By an order dated 1st June, 2023, the learned Tribunal granted compensation of Rs.17,17,920/- in favour of the claimants under Section 166 of the Motor Vehicles Act.

Mr. Soumalya Ganguli, 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 less statutory deposit before the learned Registrar General, High Court, Calcutta within such time as would be directed by this Court. On such count, he prays for stay of operation of impugned judgement and award passed by the learned Tribunal.

As per report of the Computer Section dated 13.09.2023, no caveat has been lodged.

The office report dated 12.09.2023 shows deposit 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.1670 dated 04.09.2023.

In view of readiness and willingness on the part of the appellant-Insurance Company to deposit the entire awarded sum less statutory deposit, there shall be stay of operation of the impugned judgment and award passed by the learned Tribunal till 2nd week of December, 2023. The appellant-Insurance Company is directed to deposit the entire awarded sum less statutory deposit 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.

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

Let the matter appear on 15th December, 2023 under the heading “*Application*”.

(Bivas Pattanayak, J.)