

22.09.2023

Ct. no.654

Sl. No. 239.

KB

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

F.M.A.T.(MV) 475 of 2022

with

IA No. CAN 1 of 2022

with

IA No. CAN 2 of 2023

The Oriental Insurance Company Ltd.

Vs.

Smt. Pani Mahali and others

Mrs. Sucharita Paul

... for the appellant-Insurance Co.

In Re: CAN 2 of 2023

This is an application for condonation of delay in preferring the appeal.

Mrs. Sucharita Paul, learned advocate for the appellant-insurance company submits that there is delay of 169 days in preferring the appeal.

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

In Re: CAN 1 of 2022.

This is an application for stay of operation of impugned judgment and award dated 28th July, 2022 passed by learned Additional District Judge, Fast Track 3rd Court, Sadar, Paschim Medinipur in M.A.C. Case No. 513 of 2013 under Section 166 of the Motor Vehicles Act, 1988.

By order dated 28th July, 2022 the learned Tribunal granted compensation of Rs.54,28,000/- together with

interest in favour of the claimants under Section 166 of the Motor Vehicles Act, 1988.

Mrs. Sucharita Paul, 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. She indicates that on 5th September, 2023 an order of stay was granted, but subsequent thereto on 8th September, 2023, the order of stay was recalled on the ground that there was no noting with regard to the delay in filing of the appeal. On such count, she prays for stay of operation of impugned judgment and award.

As per report of the Computer Section, Appellate Side, High Court, Calcutta dated 4th November, 2022, no caveat has been lodged.

The office report dated 01.12.2022 shows that the insurance company has deposited 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.2566 dated 23.11.2022.

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 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 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 nationalised bank, until further orders.

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

Let the matter appear on 20th November, 2023 under the heading “Application”.

(Bivas Pattanayak, J.)