

23.12.2022
Sl. No. 50
Ct No. 654
Ali

F.M.A.T (MV) 533 of 2022
IA No:CAN/1/2022, CAN/2/02022.

MAGMA HDI General Insurance Co. Ltd.
Vs
Sushil Ghosh @ Haru Ghosh

Mrs Gopa Das Mukherjee
.....for appellant-insurance company

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

Re: CAN 2 of 2022

This is an application for condonation of
delay.

Mrs Gopa Das Mukherjee, learned advocate
for appellant-insurance company submits that there
is delay of only 3 days in filing the appeal which
should be condoned.

The track report annexed to the affidavit of
service shows that the copy of this application has
been served upon the respondents. None appears for
respondents.

Hence the application for condonation of
delay is taken up for consideration.

As per report of Additional Stamp Reporter
dated 25.11.2022 there is delay of only 3 days in
filing the appeal. The cause shown is sufficient to

condone such delay. Accordingly, the delay of 3 days in preferring the appeal is condoned.

Thus the application for condonation of delay being **CAN 2 of 2022** stands disposed of.

The appeal is formally admitted and registered.

This appeal is directed against the judgment and award dated 7th May 2022 passed by learned Additional District Judge cum Judge, Motor Accident Claims Tribunal, Fast Track, 4th Court, Barasat, 24-Parganas (North) in M.A.C Case no. 679 of 2015 (Old no. MAC Case no.616 of 2015) under Section 166 of the Motor Vehicles Act, 1988.

Call for the lower court records.

Department is directed to take effective steps for bringing the lower court records from the learned tribunal within a period of three 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 lower court records upon learned advocate for the appellant-insurance company within a period of two weeks.

Upon receipt of notice of arrival learned advocate for appellant-insurance company shall prepare and file requisite numbers of informal paper books incorporating all relevant papers and

documents including pleadings, both oral and documentary evidence in printed, cyclostyled or typewritten form within a period of four weeks from date of service of notice of arrival of lower court records.

Appellant-insurance company is directed to deposit *Talabana* cost alongwith written up notice forms for service of notice of appeal upon the respondents two week after Winter Vacation.

Re: CAN 1 of 2022

This is an application for stay of operation of judgment and award dated 7th May 2022 passed by learned Additional District Judge cum Judge, Motor Accident Claims Tribunal, Fast Track, 4th Court, Barasat, 24-Parganas (North) in M.A.C Case no. 679 of 2015 (Old no. MAC Case no.616 of 2015) under Section 166 of the Motor Vehicles Act, 1988.

By an order dated 7th May 2022 the learned tribunal granted compensation in favour of the claimant to the tune of Rs.4,84,000/- alongwith interest under Section 166 of the Motor Vehicles Act, 1988.

Mrs Gopa Das Mukherjee, learned advocate for appellant-insurance company submits that the insurance company has already deposited the statutory amount of Rs.25,000/-and is ready and willing to deposit the entire awarded sum along 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 she prays for stay of operation of impugned judgment and award.

The track report annexed to the affidavit of service shows that the copy of this application has been served upon the respondents.

As per report of Computer Section, Appellate Side, High Court, Calcutta dated 8.12.2022 no caveat has been lodged.

Report of SR section shows that an amount of Rs 25,000/-has been deposited in terms of Section 173(1) of the Motor Vehicles Act with the Registry of this Court vide OD Challan no.2461 dated 15.11.2022

In view of the readiness and willingness on the part of appellant-insurance company to deposit the entire awarded sum along with interest less statutory deposit, there shall be stay of operation of impugned judgment and award for a period of six weeks. Appellant-insurance company is directed to deposit the entire awarded sum along with interest less statutory deposit before the learned Registrar General, High Court, Calcutta within a period of six weeks.

In the event the appellant-insurance company makes deposit of the aforesaid amount the stay shall continue till the disposal of this application. In default to make deposit of the aforesaid amount the stay shall stand automatically vacated without reference this court.

Learned Registrar General, High Court, Calcutta 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.

Let the matter appear three weeks on reopening after Winter Vacation.

(Bivas Pattanayak, J.)