

17.10.2023
Ct. no.654
Sl. No. 213.
KB

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

**F.M.A.T.(MV) 635 of 2023
with
IA No. CAN 1 of 2023**

**National Insurance Co. Ltd.
Vs.
Shilpa Saha and others**

Mr. Deb Narayan Ray
... for the Insurance Company.
Mrs. Sima Ghosh
... for the respondent no.1.

In Re: F.M.A.T.(MV) 635 of 2023

This appeal is preferred against the judgment and award dated 28th July, 2023 passed by learned Additional District Judge cum Judge, Motor Accident Claims Tribunal, Fast Track Court, Suri, Birbhum in M.A.C. Case No. 121 of 2022 under Section 166 of the Motor Vehicles Act, 1988.

As per report of Additional Stamp Reporter dated 13th October, 2023, the appeal is filed 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 of service of notice of arrival of lower court records.

Appellant-insurance company is directed to deposit *talabana* costs together with written up notice form for causing service of notice of appeal upon the respondent nos.2 and 3.

Since the respondent no.1-caveator has already entered appearance, hence service of notice of appeal upon said respondent stands dispensed with.

In Re: CAN 1 of 2023

This is an application for stay of operation of the impugned judgement and award dated 28th July, 2023 passed by learned Additional District Judge cum Judge, Motor Accident Claims Tribunal, Fast Track Court, Suri, Birbhum in M.A.C. Case No. 121 of 2022 under Section 166 of the Motor Vehicles Act, 1988 as well as further

proceedings in MACC Execution Case No. 17 of 2023 pending before the learned Tribunal.

By order dated 28th July, 2023, learned Tribunal granted compensation of Rs. 30,54,000/- together with interest in favour of the claimants under Section 166 of the Motor Vehicles Act, 1988.

Mr. Deb Narayan Ray, 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. He further submits that the claimants have initiated an execution proceeding being MACC Execution Case No. 17 of 2023. On such count, he prays for stay of operation of impugned judgment and award as well as further proceedings in the aforesaid execution case.

Mrs. Sima Ghosh, learned advocate for the respondent no.1-caveator leaves the matter to the discretion of the Court.

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 as well as further proceedings in MACC Execution case no. 17 of 2023 pending before the learned Tribunal till second week of December, 2023. 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 second 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 nationalised bank, until further orders.

Appellant-insurance company is directed to serve copy of this application upon respondent nos. 2 and 3 and file affidavit of service on the adjourned date.

Let this matter appear on 18th December, 2023 under the heading “Application”.

(Bivas Pattanayak, J.)