



2026:CHC-AS:1065

20.12.2023

Ct. no.654

Suppl. 3

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

**F.M.A.T.(MV) 778 of 2023
(CAN 1 of 2023)**

**The New India Assurance Co.Ltd.
Vs.
Soma De & Ors.**

Ms. Sayanti Santra
... for the appellant-Insurance Co.

Upon urgent mentioning by the learned advocate for the appellant-insurance company, this matter is taken up today.

In Re: F.M.A.T (MV) 778 of 2023

This appeal is preferred against the judgment and award dated 30th August, 2023 passed by the learned Judge, Motor Accident Claims Tribunal, Bench No. XIII, City Civil Court, Calcutta in MAC Case no. 430 of 2018 under Section 166 of the Motor Vehicles Act, 1988.

As per report of the Additional Stamp Reporter dated 15th December, 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 of service of notice 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 respondents.

In Re: CAN 1 of 2023

This is an application for stay of operation of the judgment and award dated 30th August, 2023 passed by the learned Judge, Motor Accident Claims Tribunal, Bench No. XIII, City Civil Court, Calcutta in MAC Case no. 430 of 2018 under Section 166 of the Motor Vehicles Act, 1988.



By an order dated 30th August, 2023, the learned Tribunal granted compensation of Rs. 88,98,385/- in favour of the claimants under Section 166 of the Motor Vehicles Act with a direction upon both appellant-Insurance company as well respondent no. 6-United India Insurance Company Limited to satisfy such award.

Ms. Sayanti Santra, 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 50% of awarded sum as directed by the learned Tribunal less statutory deposit before the learned Registrar General, High Court, Calcutta within such time as would be directed by this Court. On such count, she prays for stay of operation of impugned judgement and award passed by the learned Tribunal to the extent of 50% of the liability of appellant-Insurance company.

As per report of the Computer Section, Appellate side, High Court, Calcutta dated 14th December, 2023, no caveat has been lodged.

The office report dated 15th December, 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. 2633 dated 05.12.2023.

In view of readiness and willingness on the part of the appellant-Insurance Company to deposit 50% of awarded sum to the extent of liability of the insurance



company less statutory deposit, there shall be stay of operation of the impugned judgment and award passed by the learned Tribunal to the extent of 50% liability of the insurance company for a period of five weeks. The appellant-Insurance Company is directed to deposit the awarded sum to the extent of 50% of its liability less statutory deposit before the learned Registrar General, High Court, Calcutta within a period of five 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 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 **31st January, 2024** under the heading “**Application**” before the appropriate Bench having determination.

(Bivas Pattanayak, J.)