

2.5. 2024
item No.10
n.b.
ct. no. 551

**FMAT(MV) 818 of 2023
with
IA No. CAN 1 of 2024
+
CAN 2 of 2024**

**National Insurance Co. Ltd.
Vs.
Rahima Khatun Mandal & Ors.**

Mr. Deb Narayan Roy,
.....for the appellant.
Mr. Jayanta Banerjee,
Mr. Asish Sasmal,
Mr. Arghya Bhattacharjee,
.... For the respondents.

The instant appeal has been preferred against the Judgment and award dated 29.9.2023 passed by the learned Judge, Motor Accident Claims Tribunal , Fast Track 1st Court, Krishnagar, Nadia, in Motor Accident Claim Case No. 226 of 2016. The insurance company has preferred this appeal against the award.

The stamp reporter suggests that the respondent no.8 as appeared in the cause title of the memo of the appeal does not find place in the impugned order.

Mr. Roy, learned advocate appearing on behalf of the Insurance Company submits that the respondent no.8 was made party in the claim case. So he is the necessary party.

It further appears that the name of the respondent no.7 in the memo of appeal is not tallied with the impugned award. Accordingly, the appellant is directed to

correct the name of the respondent no.7 in the memo of the cause title of the appeal within a fortnight.

In Re. CAN 2 of 2024

Report of the stamp reporter suggests that the appeal is preferred in delay of 22 days.

Mr. Banerjee, learned advocate appearing on behalf of the contested respondent nos.1 to 5.

Heard the learned advocate for the appellant and also heard the objection raised by the learned advocate for the respondent nos.1 to 5.

Considering the submission and also considering the grounds mentioned in the body of the CAN 2 of 2024, it appears to me that the grounds are sufficient. Accordingly, the delay in preferring the instant appeal is condoned. Accordingly, the instant appeal is formally admitted.

Register the same.

Accordingly, CAN 2 of 2024 is disposed of.

Mr. Banerjee, learned advocate appearing on behalf of the contestant claimant/respondent submits that there is urgency to dispose of the appeal. Accordingly, he undertakes to submit special messenger cost, so that, the LCR may be reached to this Court through the special messenger.

Call for the LCR through the special messenger. Cost to be borne by the respondent nos. 1 to 5 and they are

directed to deposit the cost of special messenger to the department within a week.

After receiving such LCR, the department shall verify it. On verification, if it is found to be in order and complete, a notice of LCR shall be served upon the learned advocate for the respondent nos.1 to 5. On receiving such information, the learned advocate for the respondent shall prepare requisite number of paper book including pleading and proof both oral and documentary of LCR and shall file the same on the date of hearing.

The appellant is also directed to serve notice of appeal upon the respondent nos. 6, 7 and 8 by putting up Talabana cost along with filled up notices form with the department. The appellant is further directed to serve notice of appeal upon the respondent no.6 & 8 through speed post with acknowledgement due.

In re. CAN 1 of 2024

This is an application for stay of operation of the impugned award dated 29.9.2023. One caveat has filed being no.1634 of 2024 dated April 23, 2024. The learned advocate for the appellant submits that at the time of filing of instant appeal, the insurance company has deposited the statutory deposit vide OD Challan no.3221 dated 2.1.2024 amounting to Rs.25,000/-. The insurance company is also ascertained that if the necessary direction be made, the Insurance Company

shall deposit the entire awarded sum less the statutory deposit.

Considering the submission of the learned advocate for the Insurance Company and on considering the readiness and willingness on behalf of the Insurance Company there shall be an order of stay of the impugned order on 29.9.2023 till June 11, 2024.

The Insurance Company is directed to deposit the entire awarded sum less statutory deposit within the period. If such deposit is made, the interim order passed by this Court shall be extended till the disposal of the instant application, failing which the interim order of stay shall be vacated automatically. After such deposit is made, the office of the learned Registrar General, High Court, Calcutta shall invest the same in a short term renewable fixed deposit scheme.

The appellant is directed to serve copy of the application upon the respondents and file affidavit of service on the returnable date.

List the matter on June 18, 2024 under the heading “Application”.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Subhendu Samanta, J.)