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SLP(C)No. 10616 OF 2001
ITEM No.21

Court No. 5

SECTION XVI

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No.10616/2001

(From the judgement and order dated 19/02/2001 in FMAT 3185/00
of The HIGH COURT OF CALCUTTA)

NATIONAL INSURANCE CO. LTD.

Petitioner (s)

VERSUS

NASIM MURSHED & ORS.
(With prayer for interim relief)

Respondent (s)

Date : 27/07/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.T. THOMAS
HON'BLE MR. JUSTICE S.N. VARIAVA

For Petitioner (s) Mr. Kishore Rawat,Adv.
Mr. M.K. Dua,Adv.

For Respondent (s)

UPON hearing counsel the Court made the following

O R D E R

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Learned counsel for the insurance company contended that the bar contained in Section 170 of the Moter Vehicles Act as against the insurance company will subsis only in the event of the person against whom the claim is made was contesting the claim. If an insured failed to challenge the quantum of award passed by him by filing an appeal it would amount to his failure to continue to contest the claim and in that case it will be open to the insurance company to file an appeal in challenge of the quantum. He wanted to draw support to his proposition on the language of Section 173(1) of the Moter
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Vehicles Act which says that "any person aggrieved by an award of a claims tribuanl may file an appeal". That expression according to the learned counsel will include the insurance company in a situation when the insured did not choose to file an appeal challenging the quantum fixed by the tribunal.

We feel that above contention requires consideration.
Issue notice. Dasti permitted.

If the Insurance Company will deposite with the Tribuanl 50% of the awarded amount within four weeks from today there will be a stay of execution of the award regarding the

balance. If the 50% of the awarded amount is deposited the
disbursement of it will be governed by the decision of this
Court in G.M. Kerala State Road Transport Corporation,@@
EE
Trivandrum vs. Susamma Thomas (Mrs.) & Ors. [(1994) 2 SCC@@
EE
176].

Tag with SLP(C) No. 11029/2001.

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(N.K. Goel)
Court Master

(H.K. Bhatia)
Court Master