

13.08.2026
Court No.2
Item No.22
sudipta

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

CO 4555 of 2023

**Tumpa Ganguly & Ors.
Vs.
The New India Assurance Company Limited & Ors.**

Mr. Amit Ranjan Roy	...for the petitioners
Mr. Sanjay Paul	...for the opposite party no.1
Mr. R. Singh	
Mr. Aniruddha Singh	...for the opposite party no.2

1. Present petition has been challenging the impugned order dated 30th August, 2023 whereby the learned Judge, Motor Accident Claims Tribunal, dismissed the Misc. Case no. 80 of 2019 for the restoration of the petition. The case has a chequered history. A petition for compensation under Section 166 of the Motor Vehicles Act was filed by the petitioners as legal heirs of late Surajit Ganguly, S/o Late Debtosh Ganguly. This petition was dismissed in default on 4th February, 2019. The petitioners moved a Misc. Application no. 33 of 2019 for restoration of the petition. However, the Misc. Case no. 33 of 2019 also got dismissed in default on 27th September, 2019. Pursuance to which the petitioners moved fresh Misc. Case no. 80 of 2019 for restoration of the petition. This application was dismissed by the learned Judge, Motor

Accident Claims Tribunal by the impugned order taking into account the conduct of the petitioners. Both the parties have stated at bar that opposite party no. 3 and 4 who are the owners of the vehicles had not been appearing before the learned Tribunal also.

2. Learned Counsel for the petitioners has prayed for restoration of the petition on the ground that the petition got dismissed in default on account of fault of the lawyer. Learned counsel submits that the petitioners may not suffer on account of the negligence of the lawyer.

3. Learned counsel for the insurance companies have opposed the restoration petition on the ground that if the petition is restored, the insurance company will unnecessarily be burdened with an interest of seven years from 2019 to 2026 for no fault of them. Learned counsel submits that the petitioners may not be given the benefit of their own wrong.

4. The Motor Vehicles Act is a piece of welfare legislation and the purpose is to award the compensation to the legal heirs of the deceased. The Courts have time and again taken a view that the proceedings in such petitions have to be conducted in sync with the welfare object of the legislation. Certainly, the petitioners cannot be allowed to take advantage of their own negligence. The Court considers that for the

purpose of decision of the claim petition on merit. The petition may be restored to its original file and number.

5. In view of the discussions made hereinabove, the claim petition being MACC no. 3136 of 2014 is restored to its original file and number.

6. Learned Judge, Motor Accident Claims Tribunal, shall start the proceeding from where it was at the time of dismissed in default and shall positively dispose of the same within six months in accordance with law after giving the notice to all the parties and opportunity of being heard. However, the learned Trial Court shall, while granting interest, if any on the award, if passed in favour of the petitioners, take into account the fact that the petition remained dismissed for around seven years for the negligence of the petitioners.

7. Accordingly, the present revision petition stands disposed of.

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

9. Urgent Photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Dinesh Kumar Sharma, J.)