

11.
29.11.2021
S.D.

**C.O. 2305 of 2016
With
CAN 1 of 2017 (Old CAN 381 of 2017)
CAN 2 of 2021**

**Putul Maity
Vs.
Mr. Santosh Kumar & Anr.**

Mr. Soujanya Bandyopadhyay
...For the Petitioner.

Mr. Rajdeep Bhattacharya
...For the O.P.

The petitioner has prayed for condonation of delay in filing the application for recall/modification of the order passed in revisional application being C.O. 2305 of 2016. This application for condonation of delay is taken up for consideration along with the CAN application being CAN 1 of 2017 (Old CAN 381 of 2017) by which the petitioner has prayed for recall of the order dated 4.8.2016 passed by this Court in C.O. No. 2305 of 2016 on the contention that on the date assigned for the hearing of the case, unfortunately learned Advocate for the petitioner could not reach court due to unusual traffic jam on his normal way.

The grounds for the condonation of delay in preferring such an application is considered and allowed. But the question as to the recall of the order dated 4.8.2016 is concerned, it appears that since none had appeared on call and after having perused the order impugned, this Court was of the view that the petitioner will nowhere suffer if motor accident claim case under Section 166 is filed before the appropriate Court and with this observation the revisional application was disposed of. The petitioner or the opposite parties do not suffer in any manner whatsoever.

Learned counsel for the petitioner relied on a decision in *Narayan Chandra Das @ Chandan Das vs. Chandan Maity & Anr.* in C.O. 4193 of 2016 dated 8.5.2017 which was passed based on the decision of the Hon'ble Supreme Court in *Malati Sardar vs. National Insurance Company Ltd. & Ors.* reported in 2016 (1) T.A.C. (S.C.) 337, to submit that the provision for territorial jurisdiction has been interpreted consistent with the object of facilitating remedies for the victims of accidents and there is no bar to a claim petition filed at a place where the Insurance Company being the main contesting party, has its

business and there is no prejudice to any party or failure of justice.

In the cited decision it has been observed in paragraph 14 which reads thus :

“14. The provision in question, in the present case, is a benevolent provision for the victims of accidents of negligent driving. The provision for territorial jurisdiction has to be interpreted consistent with the object of facilitating remedies for the victims of accidents. Hyper technical approach in such matters can hardly be appreciated. There is no bar to a claim petition being filed at a place where the Insurance Company, which is the main contesting parties in such cases, has its business. In such cases, there is no prejudice to any party. There is no failure of justice. Moreover, in view of categorical decision of this Court in Mantoo Sarkar (supra), contrary view taken by the High Court cannot be sustained. The High Court failed to notice the provision of Section 21 of CPC.”

Accordingly, having heard the learned counsel for the parties and in consideration of the impugned order and taking cue from the observation made in the cited decision, this Court finds that the order which has been sought to be modified is absolutely based on such decision of the Hon'ble Court and I hold that the application for motor accident claim can be filed before a Jurisdictional Court where the office of the Insurance Company is situated as the Insurance Company is the

main contesting opposite party in motor accident claim case bearing in mind benevolent provision for the victims of accident of negligent driving and jurisdiction to tribunal has been given with an object to provide remedy to the victims of motor accident.

Learned counsel for the opposite parties submits that the petitioner would not be entitled for such delay at the instance of the petitioner on the award to be made in favour of the petitioner during the pendency of this revisional application, i.e. 2016-2021. I fully agree with such submission.

Consequently, the impugned order dated 7th April, 2015 passed by learned 4th Bench, City Civil Court at Calcutta, in Motor Accident Claim Case No. 373 of 2014 stands set aside.

Accordingly, the application being CAN 1 of 2017 (Old CAN 381 of 2017) and CAN 2 of 2021 are disposed of.

The Claim Tribunal is requested to dispose of the claim application in summarily manner after giving notice to the Insurance Company.

(Shivakant Prasad, J.)