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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 16th March, 2016

\+ **CM(M) 458/2014 & CM APPL. 7936/2014**

ICICI LOMBARD GENERAL INSURANCE CO LTD ..... Petitioner

Through: Ms. Suman Bagga & Mr. Pankaj Gupta, Advs.

versus

SHIV KUMAR & ORS ..... Respondents

Through: Mr. S. P. Gairola, Adv. for R-1.

CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT

R.K.GAUBA, J (ORAL):

1. The first respondent filed an accident claim case before the motor accident claims tribunal (the tribunal) which registered it as suit no.536/2009 for inquiry into the claim for compensation for injuries suffered. On his application under Section 151 of the Code of Civil Procedure, 1908 (CPC), the tribunal by order dated 23.04.2014 directed the appellant/insurance company (the insurer) to pay an amount of ₹1,74,300/- for his treatment in Sri Balaji Action Medical Institute, Delhi on the reasoning that estimate for such treatment had been made available, the medical institute in question was reliable and having good facility and there was no reason why the first respondent (the claimant) should continue to suffer because of his poverty.

This order was passed inspite of objection of the insurance company that there is no provision for such interim relief to be granted in as much as the only relief that can be made available is in the event of permanent disability in terms of Section 140 of the Motor Vehicles Act, 1988 (the MV Act).

2. The insurance company having come up in appeal prayed for stay against the execution of the interim order. When the application came up for consideration on 06.05.2014, it was submitted that the claimant himself is responsible for delay in expeditious disposal of the claim petition. The insurance company at the same time, submitted its readiness to pay to the injured an amount of ₹25,000/-. Subject to payment of ₹25,000/-to the claimant by the insurer, the enforcement of the impugned order was stayed.

3. At the hearing, the learned counsel for the claimant fairly conceded that the petition filed before the tribunal in the year 2009 is still at the stage of inquiry wherein the evidence is to be adduced by him. It is clear from these submissions that for the delay in the conclusion of the inquiry, the blame will have to be taken by the claimant himself. It is really unfortunate if this is the state of affairs in the face of the fact that by order dated 01.10.2014, the tribunal had been requested to make an attempt to expeditiously dispose of the claim petition.

4. The learned counsel for the claimant now fairly concedes that interim relief granted by the tribunal is not covered by any specific provision. He further fairly conceded that the order may be set aside but prayed that a request be made to the tribunal to decide the claim case/petition

expeditiously. He assures that the claimant would render all cooperation towards its end.

5. In above view, the petition is allowed. The interim relief granted by the tribunal by the impugned order is set aside. The tribunal shall proceed with the claim case expeditiously and make all endeavour to conclude the proceedings and render final judgment/award at an early date, preferably within six months of today. The amount of ₹25,000/- paid voluntarily by the insurer to the claimant shall be liable to be adjusted against the final award.

6. The petition is disposed of in above terms.

R.K. GAUBA
(JUDGE)

MARCH 16, 2016
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