08.01.2021
Item No. 7

F.M.A. 1914 of 2013
With
C.A.N. 3 of 2019 (Old No. C.A.N. 6489 of 2019)

The New India Assurance Co. Ltd.
Vs.
Smt. Swapna Sardar and others.

Mr. Saibalendu Bhowmick.
... for the appellant.

Mr. Jayanta Kumar Mandal.
... for the claimants/respondents.

Re: C.A.N. 3 of 2019 (Old No. C.A.N. 6489 of 2019)

Though an application for modification of the judgment and order dated 12th December 2018 has been filed at the behest of the Insurance Company but after perusing the averments made therein what sought to be achieved is the review of the order on the premise of the error apparent on the face of the record.

It is indicated in the instant application that there has been a wrong recording of facts so far as it relates to deposit of the awarded sum in terms of the interim order passed in the instant appeal. It has been specifically recorded in the said judgment and order dated 12th December 2018 that the claimants/respondents have not been able to show that they have deposited the awarded sum less the statutory deposit along with an interest in compliance of an order dated 22nd December 2016. The challan showing the deposit of a sum of Rs. 10,05,000/- vide Challan No. 873 dated 26th June 2013 is annexed with the instant application, which implies that the compensation awarded by the Tribunal has been deposited with the Registrar General of this Court.

Such being the position, we do not venture to go into the technicalities for the ends of justice and treat the instant application for modification as review of the said judgment and order.

Accordingly, the instant application is disposed of with the categorical findings that the sum awarded by the Tribunal has been deposited by the Insurance Company on 26th June 2013 and if the sum has been invested in an interest bearing fixed deposit in any bank, the judgment and order dated 12th December 2018 is required to be corrected.

It is hereby recorded that since the awarded sum has already been deposited, the Insurance Company is permitted to withdraw the said amount along with an accrued interest, if the same has been deposited in an interest bearing fixed deposit. If such an application is made, the Registrar General of this Court is directed to ensure that the same is disposed of within a week therefrom.

So far as the award modified by us in the said judgment is concerned, it is submitted by the learned Advocate for the claimants/respondents that the particulars of the bank account has already been furnished with the Insurance Company within the time indicated therein and, therefore, there is no impediment on the part of the Insurance Company to remit such amount directly in the aforesaid account.

In view of such fact, the Insurance Company is directed to deposit the modified awarded amount directly in the bank account of the claimants/respondents, the particulars whereof have already been furnished, in compliance to the judgment and order dated 12th December 2018 within three weeks from date.

This order shall be read conjointly with the judgement and order dated 12th December 2018.

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(Harish Tandon, J.)

(Subhasis Dasgupta, J.)