

07.12.2020.
Item no. 113.
Court No. 13
ap

F.M.A. No. 3739 of 2016
With
I.A. No. 3 of 2016 (Old CAN 10729 of 2016)

National Insurance Company Limited
Versus
Asmina Khatoon @ Bibi & Ors.

Mr. Rajesh Singh.

..For the appellant.

Mr. Jayanta Kumar Mondal.

...For the respondents/claimants.

This appeal is directed against a peculiar and bizarre judgment and order dated 20th June, 2015 passed by the Motor Accident Claims Tribunal, Fast Track 2nd Court, Paschim Medinipur in M.A.C. Case No. 225 of 2013.

The cause title clearly indicates that the Court below went on to adjudicate a claim made under Section 163A of the Motor Vehicles Act, 1988. The first line of the judgment reiterates and confirms the same. Yet in course of deciding the matter, the Court below went on to find rash and negligent action and assessed income at the rate of Rs.6,000/- per month and has awarded compensation grossly above the scope of Section 163A of the Act and Schedule thereunder.

The impugned judgment, therefore, reeks of non-application of mind.

Counsel for the respondents would urge before this Court that he has filed a claim statement under

Section 166 of the Act itself. However, a copy of the statement of claim handed over in Court by the Counsel for the appellant clearly indicates that it has been made under Section 163A of the Act.

The Court below ought to have addressed the issue as to exactly under what Section of the Act it was adjudicating the claim of the respondents.

In view of the above, this Court is of the unequivocal view that the impugned judgment cannot be sustained and is hereby set aside.

The claim application being M.A.C. Case No. 225 of 2013 is restored to the file of the Additional District Judge, Fast Track, 2nd Court, Paschim Medinipur or any other reassigned Bench for adjudication afresh. The adjudication shall proceed from the argument stage and no further evidence shall be led by either parties. The evidence-on-record and the pleadings shall be considered by the Court below afresh.

The parties shall advance their respective arguments and judgment shall be pronounced by the Court below as expeditiously as possible, preferably within a period of three months from the date of communication of a copy of this order.

The appellant/Insurance Company shall be entitled to refund of the entire sum along with any interest accrued thereon deposited by it in aid of this appeal from the Registrar General of this Court.

The Registrar General shall make over the said sum in the form of a cheque or demand draft payable in the name of the appellant/Insurance Company directly to an Authorized Officer of the Insurance Company within a period of one month from date of making an application for such withdrawal. Such application for withdrawal shall contain the name of the officer authorized to receive refund.

The appeal is disposed of in terms of the above directions.

In view of the disposal of the appeal itself, the connected application being CAN 10729 of 2016 is also disposed of.

There will be no order as to costs.

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

(Rajasekhar Mantha, J.)