

C.M.A. No.3000 of 2013

Abdul Quddhose, J.

This matter is listed under the caption "for being mentioned", at the request made by the learned counsel for the petitioner.

2. The learned counsel for the petitioner submits that even though the Tribunal under the impugned award has held that the appellant is entitled to pay and recovery rights as seen from paragraph No.12 of the impugned award, dated 29.01.2013, the same has not been incorporated in the Decree of the Tribunal in MCOP No.233 of 2011.

3. Ms.N.B.Surekha, learned counsel for the petitioner also drew the attention of this Court to the Judgment dated 13.07.2020 in CMA No.3000 of 2013, passed by this Court and in particular, she referred to paragraph No.6 of the order wherein, it has been observed that the Tribunal under the impugned award has rightly granted pay and recovery rights to the appellant, as per the settled law laid down by various decisions of the

Hon'ble Supreme Court as well as the High Courts. According to her, despite the same, in the Decree of the Tribunal dated in MCOP No.3000 of 2013, pay and recovery rights has not been incorporated. Hence, she would submit that the same may be incorporated in the Judgment dated 13.07.2020 passed by this Court in CMA No.3000 of 2013.

4. This Court after perusing and examining the decree passed by the Tribunal in MCOP No.233 of 2011 as well as the Judgment, dated 13.07.2020 passed by this Court in CMA No.3000 of 2013 is of the considered view that erroneously pay and recovery rights granted to the appellant has not been incorporated in Decree dated 29.01.2013 passed by the Tribunal in MCOP No.233 of 2011. Accordingly, the operative portion of the Judgment, dated 13.07.2020 passed in CMA No.3000 of 2013 found in paragraph No.9 is substituted by this Court as follows :-

9. For the foregoing reasons, this Appeal is partly allowed by modifying the interest portion alone. The Appellant Insurance Company is directed to deposit the

Award amount as assessed by the Tribunal together with interest at the rate of 7.5% per annum from the date of claim till the date of deposit and costs after deducting the amount already deposited to the credit of MCOP No.233 of 2011, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the first respondent is permitted to withdraw the amount lying to the credit in MCOP No.233 of 2011 along with accrued interest by filing an appropriate application. Further, on such deposit being made by the appellant, they are permitted to recover the said sum from the 3rd respondent in accordance with law. No costs. Consequently connected miscellaneous petition is closed.

5. Except for this clarification, the remaining part of the Judgment dated 13.07.2020 in CMA No.3000 of 2013 shall stand unaltered.

19.03.2021

Note: Registry is directed to issue fresh order copy.

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