

S/L 4
02.8.2021
Court No.26
SD

FMA 27 of 2010
(Via Video Conference)

The New India Assurance Co. Ltd.
Vs.

Jawahir Lal Rai @ Jabhar Roy @ Jawahar Roy & Anr.

Mr. Parimal Kumar Pahari

...for the Appellant/Insurance Co.

Mr. Amit Ranjan Roy

...for the Respondents/Claimants.

The appeal is directed against the judgment and award dated July 29, 2009 passed by the learned Commissioner, Workmen's Compensation, 1st Court, West Bengal in Claim Case No.138 of 2004.

The facts of the case are not in dispute. The claim petition was filed in connection with an accident dated April 1, 2004.

The appeal is preferred by the Insurance company, inter alia, primarily on the ground that the Insurance company was not liable at the first instance to bear the compensation payable to the claimant.

According to Mr. Pahari, counsel appearing on behalf of the appellant/insurance company, it is the employer who is liable to pay compensation and such employer is thereafter at liberty to submit an insurance claim for reimbursement by the Insurance company.

Upon reading the relevant provisions of the Workmen's Compensation Act, 1923, I am of the view that the compensation found payable to the claimant cannot be directed to be made good by the Insurance Company; the liability is that of the insured employer who should pay and recover from the Insurance Company. However, Mr. Pahari has very fairly submitted that in view of a valid insurance policy issued by New India Assurance Company Ltd. and the injured claimant being a poor person would otherwise be

prejudiced, if remand was ordered, it shall pay compensation to the claimant.

He further submits that the sum of Rs.2,30,789/- has been deposited before the learned Commissioner Workmen's Compensation, 1st Court, Calcutta and subsequently, this Court had directed the learned Commissioner to deposit the entire amount to any nationalized bank with short term deposit scheme and renew the same from time to time. He also submits that the above sum along with interest accrued thereon may be disbursed to the claimant.

Mr. Roy, counsel appearing on behalf of the claimant, does not dispute the above contention of Mr. Pahari and is further agreeable to accept the amount deposited by the insurer in the learned Commissioner Workmen's Compensation Court.

In light of the above submissions, the claimant/respondent shall furnish particulars of his bank account before the learned Commissioner Workmen's Compensation Court within three weeks from date upon deposit of such bank details; the learned Commissioner is directed to pay the deposited amount along with accrued interest thereon to the claimant/respondent in accordance with law.

With the aforesaid directions, the instant appeal is disposed of.

There shall be no order as to costs.

In view of the disposal of this appeal, connected applications, if any, are also disposed of.

The Registry is directed to send down the lower court records at once, if received by this time.

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

(Shekhar B. Saraf, J.)