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(Via Video Conference)

F.M.A.T 3719 OF 2016

with

**I.A. No. CAN 4 OF 2018
(Old No. CAN 2224 of 2018)**

National Insurance Company Limited & Anr.

-Vs.-

Sanjiv Kumar Singh & Ors.

with

COT 79 OF 2014

Sanjiv Kumar Singh & Ors.

-Vs.-

National Insurance Company Limited & Anr.

Mr. Rajesh Singh

...For the Appellant/
Insurance Company.

Mr. Ali Imam Shah

...For the Respondents/
Claimants in **FMAT 3719 of 2016**
And
...For the Appellants/
Claimants in **COT 79 of 2014**

The instant appeal is directed against the judgment and award dated May 6, 2014 passed by the learned Judge, Spl. Court cum Additional District Judge cum

Judge MAC Tribunal, Durgapur, Burdwan, in MAC Case No. 28 of 2013/34 of 2012 on a claim under section 166 of the Motor Vehicles Act, 1988 for the death of one 52 years old 'Raj Bahadur Singh' in a road accident dated January 26, 2012.

The appeal has been preferred by the appellant/ Insurance Company, disputing its liability of satisfaction of award, on the ground that the alleged offending vehicle was not involved in the accident. The insurer submits that the 'First Information Report' about the accident was lodged five days after the accident to help the respondents/claimants implant the alleged offending vehicle. The insurer submits that evidence of the eye witness cannot be relied upon as the said eye witness did not lodge the FIR with the police authorities.

This court finds that since the seizure list, the charge sheet and the statement of the eye witness, all confirm that the alleged offending vehicle was involved in the accident, insurer's plea of 'non-involvement' of the

alleged offending vehicle is not substantiated at all. The appellant/Insurance Company did not bring any evidence to prove its case. The insurer neither exhibited any document nor produced any witness to show that the alleged offending vehicle was not involved in the accident.

The owner or the driver of the alleged offending vehicle does not deny the involvement of their truck in the accident. Moreover, the judgement of **Ravi -Vs- Badrinarayan & Ors.** reported in **2011(1) TAC 867 SC** states that delay in lodging FIR cannot be a ground to deny justice to the victim. The appeal, accordingly, fails.

The respondents/claimants in the instant appeal have filed a cross-objection being COT 79 of 2014. The same is treated to be as on day's list.

Mr. Ali Imam Shah, learned advocate is appearing on behalf of the appellants/claimants in COT 79 of 2014. He submits that the appellants/claimants do not wish to press this appeal.

Accordingly, COT 79 of 2014 is disposed of as not pressed.

Learned advocate for the insurance company submits that the insurer has deposited a total sum of Rs.21,79,527/- before the Registrar General of this Court.

In light of above submissions, the respondents/claimants shall furnish particulars of their respective bank accounts with the Registrar General of this Court within two weeks from date. Upon receipt of such details, the Registrar General is directed to pay the total deposited amount along with accrued interest to the respondents/claimants in accordance with law in the same manner and proportion as indicated in the award within a period of four weeks thereafter.

The Registrar General shall check the veracity of the bank accounts and the identity of the respondents/claimants before disbursing the amount.

With the aforesaid directions, the instant appeal being F.M.A. 3719 of 2016 together with the connected application stand disposed of.

The department concerned is directed to tag the application, if any, with the main appeal.

There shall be no order as to costs.

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.)