

28.07.2021

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(Via Video Conference)

F.M.A.T. 535 of 2012

I.A. No. CAN 1 of 2012 (old No. CAN 5338 of 2012)

I.A. No. CAN 2 of 2012 (old No. CAN 5343 of 2012)

I.A. No. CAN 3 of 2014 (old No. CAN 8373 of 2014)

The New India Assurance Co. Ltd.

Vs.

Saroja Devi & anr.

Mr. Parimal Kumar Pahari ...For the Appellant/Insurance Co.

Mr. Amit Ranjan Roy ... For the respondent No.1/claimant

Re : I.A. CAN 1 of 2012 (old no. CAN 5338 of 2012)

This is an application for condonationn of delay in filing the instant appeal.

On perusal of the pleadings, this Court is satisfied that cause shown for delay in filing of the appeal is sufficient and prayer for condonation of delay should be allowed.

Accordingly, the application for condonation of delay stands allowed.

The application for condonation of delay is, thus, disposed of.

F.M.A.T. 535 of 2012

By consent of the parties, the instant appeal is treated as on day's list and is taken up for hearing.

The department is directed to register the instant appeal immediately.

This appeal is directed against the judgement and award dated 28th February, 2011 passed by the Learned Commissioner, Workmen's Compensation, 2nd Court, West Bengal in Claim Case No.398 of 2007.

The facts of the case are not in dispute.

The claim was filed in connection with an accident dated 18th August, 2007 when one Ram Singer Sharma died.

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, learned 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 submits that in view of a valid insurance policy issued by New India Assurance Company Ltd. and the 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.3,06,993/- has been deposited before the learned Commissioner Workmen's Compensation Court. He also submits that the above

sum along with interest accrued thereon, if any, may be disbursed to the claimant.

Mr. Amit Ranjan Roy, learned 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 submission, the claimant/respondent shall furnish particulars of her Bank account before the learned Commissioner Workmen's Compensation Court within three weeks from date and upon deposit of such bank details, the learned Commissioner is directed to pay the deposited amount along with accrued interest, if any, to the claimant/respondent in accordance with law.

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

In view of disposal of this appeal, connected applications, if any, are also disposed of. The concerned Department is directed to tag the applications, if any, with the main appeal.

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, on priority basis.

(Shekhar B. Saraf, J.)