27.08.2021
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(Via Video Conference)

F.M.A.T. 654 of 2019
I.A. CAN 1 of 2019 (old No. CAN 7280 of 2019)
I.A. CAN 2 of 2019 (old No. CAN 7281 of 2019)
I.A. CAN 3 of 2021

National Insurance Co. Ltd.
Vs.
Papia Das @ Papia Bishal & ors.

With

COT 100 of 2019

Papia Das @ Papia Bishal & anr.
Vs.
National Insurance Co. Ltd.

Mr. Rajesh Singh
...For the Appellants/Insurance Co.

Mr. Subhankar Mandal
... For the respondents/claimants

I.A. CAN 1 of 2019 (old No.CAN 7280 of 2019)

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

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

Accordingly, the application for condonation of delay stands allowed.

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

F.M.A.T. 654 of 2019

Mr. Rajesh Singh, learned Counsel appearing on behalf of the Insurance Company/appellant submits that the appeal has actually become infructuous as the Insurance Company has paid the decreetal amount as per the order of the learned Tribunal to the claimants. He also submits that this payment was made due to an order passed on August 11, 2011 wherein the learned Tribunal had directed attachment of the entire bank account of the Insurance Company till further orders with a direction to send a report to the learned Tribunal with regard to total outstanding amount lying in the said account. Furthermore, the Tribunal had directed compliance report to be filed by the concerned Bank Manager on September 3, 2021.

Mr. Singh submits that the practice of the learned Tribunal in attaching the entire bank account is bringing the entire operation of the Insurance Company to halt as the Insurance Company is unable to carry out its day to day activities. He submits that if attachment is to be done, the same should be done specifically with regard to the decretal amount along with interest that is payable to the claimants.

Mr. Singh further submits that he does not wish to press the instant appeal but only wishes to retain his right to proceed against the owner of the offending vehicle in accordance with law.

In light of the above submissions and upon perusal of the documents, I am of the view that the Insurance Company shall have the right to pursue its claim for recovery of the decretal amount along with interest from the owner of the offending vehicle in accordance with law. Furthermore, it has come to my knowledge that the learned Tribunals in other cases have also directed to attach the entire bank accounts of the judgement-debtors without any reference to the specific amount (decretal amount plus interest).

This practice is obviously arbitrary and hinders commercial activities that would have impact on other claimants also.

In light of the same, I direct the learned Tribunals to henceforth act with caution and only to attach the decretal amount along with interest but not the entire bank account of the judgement-debtor.

Registry is directed to send a copy of the order passed in Court today to all the Motor Accident Claims Tribunals in the State of West Bengal.

With the above observations, the appeal of the Insurance Company being F.M.A.T. 654 of 2019 is disposed of.

As a consequence thereof, the connected applications are also disposed of.

Since the appeal of the Insurance Company being F.M.A.T. 654 of 2019 is disposed of, the appeal of the claimants being C.O.T. 100 of 2019 be heard and decided on merit. Let paper book filed by the claimants be kept with the record.

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.)