

S/L 60
15.02.2021
Court. No. 19
GB

C.O. 1607 of 2020

The New India Assurance Co. Ltd.
Vs.
Kamal Chakraborty & Ors.

(Through Video Conference)

Mr. Rajdeep Bhattacharjee.

...for the Petitioner.

*Mr. Amit Kumar Pan,
Mr. Saswata Bhattacharyya,
Mr. Rabindranath Basu.*

...for Opposite Party Nos.1 & 2.

*Mr. Aranya Saha,
Mr. Rajeshwar Chakraborty.*

...for Opposite Party No.3.

The revisional application has been rejected on the ground that the leave to file an additional written statement on behalf of the insurance company was rejected by an order dated November 24, 2020 passed by the learned Additional District Judge, Motor Accident Claims Tribunal, 4th Court, Fast Track, Alipore in MACC No.1 of 2017.

The insurance company by filing the additional written statement wanted to bring on record certain statements made by the security guard of the victim under Section 164 of the Code of Criminal Procedure. The learned court below rejected the application on the ground that contents of the statement would amount to retracting the admission made in the written statement.

Mr. Pan, learned advocate appears on behalf of the claimants submits that the source of the document was doubtful. That the document was not procured through the appropriate process of law and as such, an additional written statement for incorporation of such documents and contents thereof cannot be allowed.

Having heard the rival contentions of the respective parties, the Court is informed that subsequently a certified copy of the statements sought to be relied on by filing of an additional written statement has been obtained. As it has been prayed that that certified copy has been obtained, this Court sets aside the order impugned by allowing the petitioner to file an additional written statement only incorporating the statements of the security guard made under Section 164 of the Code of Criminal Procedure. Such additional written statement shall be filed within two weeks from date.

The claimants shall be allowed to amend the plaint upon receiving a copy of the additional written statement if the same is required in the view of the learned court below. Whether the statements under Section 164 Cr.P.C. could be adduced in evidence, the same will be decided by the learned court below at the appropriate stage in terms of the provisions of the Indian Evidence Act.

The learned court below shall act on the basis of the server copy of this order.

The order impugned is set aside.

The revisional application is disposed of.

There will be, however, no order as to costs.

Urgent Photostat certified copy of this order, if applied for, be given to the parties on priority basis.

(Shampa Sarkar, J.)