

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

FMA 861 of 2012
with
IA No. CAN 1 of 2010 (CAN 1513 of 2010)
with
CAN 2 of 2010 (CAN 1514 of 2010)

The Oriental Insurance Co. Ltd.

Vs.

Smt. Krishna Datta & Ors.

with

COT 7 of 2020

Smt. Krishna Datta & Ors.

Vs.

Oriental Insurance Company Limited & Anr.

Mr. Sanjoy Paul

... For the Appellant in FMA 816 of 2012 &
respondent no.1 in COT 7 of 2020

Mr. Jayanta Banerjee

Mr. Sandip Bandyopadhyay

Ms. Raxmini Basu Roy

... For the respondent in FMA 816 of 2012
& Appellants in COT 7 of 2020

This appeal is directed against the judgment passed by the learned Additional District Judge, FCT-III, Siliguri, District – Darjeeling (Motor Accident Claims Tribunal) in MAC Case No.90 of 2004 whereby the learned Judge awarded a sum of Rs.8,43,280/- in favour of the claimants and the Insurance Company was directed to pay the awarded sum to the claimants within four weeks from the date of the order passed on 17th September, 2009.

Learned advocates appearing on behalf of the appellant/Insurance Company as well as the claimants are

present. On behalf of the appellant/Insurance Company, it is submitted that though the learned Judge observed that there was no valid licence to the driver of the auto but no order was passed giving liberty to the Insurance Company to realise the amount from the owner for violating the terms of the insurance.

From the impugned order, it appears that at the relevant point of time the driver had no valid licence. It has been stated by the evidence of DW-1 together with the documents admitted in evidence as Ext.-A.

Learned lawyer appearing on behalf of the respondents/claimants did not raise any dispute regarding contention advanced on behalf of the appellant/Insurance Company.

In the circumstances, I do not find any reason to deny the prayer of the appellant/Insurance Company by issuing the liberty to the Insurance Company to realise the amount from the owner in accordance with law.

So far as the awarded amount is concerned, it is submitted that all awarded amount is lying with the learned Registrar General of this Court.

It is directed that the awarded amount may be given to the three claimants in equal share along with the interest accrued thereon by issuing three separate cheques.

It is submitted that by the impugned order the learned Tribunal already passed an order directing the appellant/Insurance Company to add the interest accrued thereon from the date of filing of the claim petition till the date of the order passed.

However, the appellant/Insurance Company is also directed to pay the interest on the awarded sum from the date of filing of the claim petition till the date of deposit of the awarded sum before this Court.

In view of the aforesaid order, the instant appeal, being FMA 861 of 2012, stands disposed of.

In view of disposal of the appeal, the applications, being CAN 1 of 2010 (CAN 1513 of 2010) and CAN 2 of 2010 (CAN 1514 of 2010) and all pending applications, if any, are also disposed of.

In re: COT 7 of 2020

By consent of the parties, the Cross-Appeal is taken up for hearing treating the same as on day's list and disposed of accordingly in view of the disposal of the main appeal.

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

(Bibhas Ranjan De, J.)