

15.02.2022
Item No.44
Ct. No.7
CHC
(disposed of)

**F.M.A.372 of 2021
(Via Video Conference)**

**Rebati Mondal & anr.
Vs.
M/s National Insurance Company Limited & anr.**

Ms. Sima Ghosh
...for the appellants/claimants

Mr. Afroze Alam
...for the respondent no.1/
Insurance Company

Mr. Afroze Alam, learned advocate appearing for the respondent no.1/Insurance Company frankly admits that on the basis of some wrong instructions, he made submission that the awarded sum had already been deposited, but on the basis of new instructions, he received, he apologies submitting that he may be excused for the wrong submission he made yesterday and discloses in virtual mode that no awarded sum has since been deposited.

Mr. Alam is requested to make submission henceforth on the basis of paper instructions that will be made available to him by the respondent no.1/Insurance Company, and that will not be fair

enough, but also unnecessarily put the Court to face undue harassment.

Without going into the details, the apology expressed by Mr. Alam is accepted.

Both the learned advocates appearing for the respective parties conjointly urge before this Court for expeditious disposal of this appeal even to the extent of giving a go by to the rules applicable in the process.

Ms. Sima Ghosh, learned advocate appearing for the appellants/claimants submits that a small point is involved in this case pertaining to not granting of interest, as available under Section 171 of the M.V. Act, and as such, the appeal may be disposed of without inviting any extensive hearing, which is not opposed by Mr. Alam representing the respondent no.1/Insurance Company.

When learned advocate for both the parties are ad idem on the issue urging thereby for expeditious disposal of this appeal, the Court should not stand in the way the appeal is thus taken up for consideration.

The instant appeal has been preferred by the appellants/claimants impugning the judgement and award dated 30th November, 2019, passed in M.A.C.Case No.41 of 2016, by learned Judge, M.A.C.C. Tribunal/Fast Track Court, Rampurhat, Birbhum on a claim case under Section 166 of the M.V. Act for a vehicular accident occurred on 6th September, 2016,

due to rash and negligent driving of vehicle bearing No.WB – 11D –0694, resulting in death of deceased/victim namely, Binod Kumar Mondal.

Admittedly, compensation was granted to the tune of Rs.12,46,000/- together with interest at the rate of 6 per cent per annum till the issuance of the cheque.

Ms. Ghosh, learned advocate appearing for the appellants/claimants urges solitary ground upon adverting to Section 171 of the M. V. Act, that the interest so assessed should be given from the date of making claim application till the realization of the entire awarded sum. There is no other point raised in this appeal.

Mr. Alam submits that the order of the learned Tribunal should not be interfered with, as interest component has already been taken care of by the Tribunal, and as such, there is no scope for even any modification of the award after revisiting the award in context with the submission, so advanced by the learned advocate for the appellants.

Section 171 of the Motor Vehicles Act, 1988, deals with granting award with interest to be payable from the date of making the claim application. There is no such ambiguity in the words used by the legislature in Section 171 of the M. V. Act.

Mr. Alam has nothing to show that interest should not be made available from the date of making claim application.

Having considered the submission of both sides and bearing in mind the provisions laid down in Section 171 of the M. V. Act, the award needs modification upon granting interest with effect from the date of filing claim application till realization of entire awarded sum.

Accordingly, the awarded sum together with interest assessed at the rate of 6 per cent per annum be paid to the claimants by the respondent no.1/Insurance Company, from the date of filing of the claim application till the payment to the claimants, in the manner and proportion as already decided by the Tribunal, within thirty (30) days from the date of receipt of bank particulars of the appellants/claimants, to be supplied by their learned counsel to the learned counsel of the respondent no.1/Insurance Company. The payment shall be made to the claimants/appellants by NEFT/RTGS.

With the aforesaid direction, the instant appeal stands disposed of.

Connected application, if there be any, also stands disposed of.

There shall 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.

(Subhasis Dasgupta, J.)