

8th July,
2022
(AK)
24

C.O. 1443 of 2015
IA No: CAN 1 of 2016
(Old No: CAN 6425 of 2016)
CAN 2 of 2016
(Old No: CAN 6426 of 2016)

Smt. Parbati Patra and others
Vs.
M/s. Annapurna Builders

Mr. L.M. Ghosh

...for the petitioners.

Mr. P.K. Pahari

...for the opposite party.

Re: CAN 6426 of 2016

CAN 6426 of 2016 is allowed in view of sufficient cause for the delay having been shown. The delay in filing CAN 6425 of 2016 is, thus, condoned.

Re: CAN 6425 of 2016

In CAN 6425 of 2016, sufficient reasons have been disclosed by the petitioner for absence of the petitioner on the relevant date.

Accordingly, CAN 6425 of 2016 is allowed, thereby recalling the order dated June 2, 2015 passed in C.O. 1443 of 2015 and restoring the said revisional application to its original file and number.

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

Re: C.O. 1443 of 2015

Learned counsel for the petitioners cites *Malati Sardar vs. Naional Insurance Company Limited and Ors.* reported at 2016 (1) T.A.C. (S.C.) in support of the proposition that if an application for compensation under the Motor Vehicles Act is filed before a tribunal having territorial jurisdiction over the location at which the accident took place, the said tribunal also has jurisdiction to take up such application.

Learned counsel appearing for the Insurance Company, in his usual fairness, submits that the said decision of the Supreme Court still holds the field.

It is seen from the impugned order that the tribunal returned the claim petition for presenting the same before the proper forum only on the ground of lack of territorial jurisdiction.

Hence, following the ratio laid down in *Malati Sardar (supra)*, the tribunal obviously committed a patent jurisdictional error in refusing to entertain the claim application on the ground of lack of territorial jurisdiction.

Accordingly, C.O. 1443 of 2015 is allowed, thereby setting aside Order no.33 dated January 9, 2015 passed

by the Eleventh Judge, City Civil Court at Calcutta in M.J.C. Case No.960 of 2008.

The said tribunal shall proceed with the hearing of the claim application as expeditiously as possible and dispose of the same preferably within six months from the date of communication of this order to the tribunal.

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)