

21.11.2022
SL No. 27
Court No. 654
Sk

F.M.A. 834 of 2022

Joychand Mistri

vs

National Insurance Co.Ltd. & Anr.

Mr. Muktakesh Das

.....for the appellant.

Mr. Rajesh Singh

...for the respondents.

This appeal is directed against judgment and award dated 4th April 2022 passed by learned Additional District Judge cum Motor Accident Claims Tribunal, 1st Court, Nadia, Krishnagar in MAC Case no. 318 of 2004 under Section 166 of the Motor Vehicles Act, 1988.

As per report of Additional Stamp Reporter dated 21.06.2022 the appeal is preferred within the statutory period of limitation.

Accordingly the appeal is formally admitted and registered.

Mr. Muktakesh Das, learned advocate for appellant-claimant submits that appeal is filed solely on the ground that learned tribunal failed to grant interest from the date of filing of the claim application, hence calling for of lower court records as well as preparation of informal paper-books be dispensed with. In view of such submissions calling

for of lower court records as well as preparation of informal paper books is dispensed with at present.

Learned advocate for appellant-claimant further submits for dispensing with service of notice of appeal upon respondent no.2-owner of the offending vehicle as he did not contest the claim application before the learned tribunal. It appears from the impugned judgment that respondent no.2-owner of the offending vehicle inspite of due service of summons did not contest the claim application before the learned tribunal and the case was disposed of *exparte* against him. In the aforesaid backdrop service of notice of appeal upon respondent no.2-owner of the offending vehicle is dispensed with.

The appeal is taken up for hearing.

Mr. Das, learned Advocate for appellant-claimant submit that the learned tribunal failed to grant interest from the date of filing of the claim application rather the interest has been granted as a default clause.

Mr. Rajesh Singh, learned advocate for respondent no.1-insurance company submits that the appellant-claimant have already received the amount of Rs. 2,00,000/- however he fairly submits that the interest was allowed as a default clause.

It appears from the impugned judgment that the learned tribunal directed the insurance company to satisfy the award within a period of two months in default such amount shall carry interest @ 6% per annum from 12.8.2014 i.e date of appearance of opposite party till realization. Accordingly, such direction of the learned tribunal needs to be modified to the extent that the claimants are entitled to receive interest @ 6% per annum from the date of filing of the claim application on the compensation amount granted by the learned tribunal of Rs. 2,00,000/-. It is informed by learned advocate for appellant-claimant that he has already received Rs. 2,00,000/-.

The other findings of the learned tribunal have not been challenged in the appeal.

Accordingly the respondent no.1-insurance company is directed to deposit the amount equaling to interest @ 6% per annum on the compensation amount of Rs.2,00,000/- from the date of filing of the application till payment was made to the claimant, by way of cheque before the learned Registrar General, High Court, Calcutta within a period of five weeks from the date of this order. The learned Registrar General, High Court, Calcutta shall disperse the amount in favour of the appellant-claimant upon satisfaction of their identity.

With the aforesaid observation the appeal and all connected application stands disposed of.

Interim order if any stands vacated.

Urgent photostat copy if applied for be supplied to the parties, on compliance of legal formalities.

(Bivas Pattanayak J.)