

Court No. 22
25.07.2022
(Item No. 22)
(Sanjay)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 16079 of 2015

With
CAN 1 of 2016 (Old No. CAN 3348 of 2016)
With
CAN 3 of 2021

Sri Milon Kumar Bhattacharya
VS
The Union of India & Ors.

Mr. Balai Lal Sahoo,
Mr. Sankha Prasad Ray
..... for the petitioner

Mr. Soumalya Ganguli
..... for the respondent nos.4 to 7

The writ petitioner claims to be a bonafide insured one on account of his goods carrying vehicle. This was a three wheeler vehicle. On May 30, 2005 the vehicle met with an accident. The writ petitioner lodged his claim before the New India Assurance Company Limited. Such claim has not been decided by the Insurance Company.

This is the second round of writ petition. Previously a writ petition was filed being WP 13678(W) of 2009 and an order was passed on August 01, 2011 directing the Insurance Company to decide the claim of the writ petitioner. Pursuant to that, the Insurance Company by its letter dated September 13, 2011 had required certain documents to be produced by the writ petitioner. In reply thereto, the writ petitioner gave

necessary explanation before the Insurance Company through his letter dated September 23, 2011.

An appeal was carried out before the Division Bench of this Court from the said order dated August 01, 2011. Such appeal was dismissed. While dismissing the appeal, the Division Bench had observed that the Insurance Company had already taken a decision on the claim of the petitioner on February 28, 2013 when the claim of the petitioner was rejected. It was observed that, it was open to the petitioner to assail the order of rejection of claim in accordance with law in an appropriate proceeding.

The writ petitioner then by his written communication made two representations before the Insurance Company, namely, dated July 16, 2013 **Annexure P-7** and dated March 07, 2014 **Annexure P-8** to the writ petition respectively. None of these representations were dealt with by the Insurance Company. The said representations contained the requisite documents as were required to be produced by the writ petitioner in terms of the requisition made by the Insurance Company.

Thus, being aggrieved, the petitioner filed this writ petition.

Mr. Ganguli, learned advocate appearing for the Insurance Company submits that in terms of said letter

dated September 13, 2011, **Annexure P-5** to the writ petition, the petitioner did not furnish the challan of goods as was mentioned in the said communication.

In fact, challenging the said order of rejection of the claim of the petitioner by the Insurance Company dated February 28, 2013 two representations dated July 16, 2013 **Annexure P-7** and dated March 07, 2014 **Annexure P-8** were made before the Insurance Company.

The affidavits filed by the parties are on record.

After hearing the learned counsel appearing for the parties and on perusal of the records it appears to this Court that two representations dated July 16, 2013 **Annexure P-7** and dated March 07, 2014 **Annexure P-8** to the writ petition, admittedly, have not been considered and same did not receive the attention of the Insurance Company. The writ petitioner has a right to know the fate of the representations when rightly or wrongly he has made representations before the Insurance Company.

In view of the above, the respondent no.6 is directed to consider the representations dated July 16, 2013 **Annexure P-7** and dated March 07, 2014 **Annexure P-8** to the writ petition upon giving a prior hearing notice of at least seven days to the writ petitioner

and shall come to its logical conclusion with a reasoned order.

The entire exercises, as directed above, shall be carried out by the respondent no.6 within a period of six weeks from the date of communication of this order. The respondent no.6 shall communicate the reasoned decision/order to the writ petitioner within a further period of two weeks from the date of such reasoned order to be passed. It is needless to mention that the petitioner must be given an opportunity of hearing in accordance with law.

On the above terms the writ petition being **WPA 16079 of 2015** stands disposed of. Consequently, **CAN 1 of 2016 (Old CAN 3348 of 2016)** stands disposed of. In the light of the above, **CAN 3 of 2021** stands disposed of.

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

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Aniruddha Roy, J.)