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FMA 205 of 2011
With
IA NO: CAN 1 of 2010 (Old No. CAN 6320 of 2010)
CAN 2 of 2019 (Old No. CAN 1462 of 2019)

The Oriental Insurance Co. Ltd.
Versus
Smt. Rekha Gope & Ors.

Mr. Sanjoy Paul ... for the Insurance Co.

Mr. Amit Ranjan Paul
... for the appellants/claimants

This is an appeal filed on behalf of the Oriental Insurance Company challenging the award passed by the learned Motor Accident Claim Tribunal, Fast Track, 2nd Court, Asansol directing Oriental Insurance Company to pay the award to the claimant.

By preferring this appeal Insurance Company has tried to draw attention of this Court that accident took place due to rash driving of a Dumper bearing registration No. WB-37/2817 and chargesheet was also submitted against the driver of the Dumper.

Mr. Sanjoy Paul, learned advocate appearing on behalf of the appellant/Insurance Company has submitted that the Oriental Insurance Company insured the motor cycle bearing No. 38Q/0450 which is not responsible to the accident alleged in this case whereby son of the claimant died.

However, in this appeal neither the accident nor the death of son of the claimant has been disputed. In this appeal the quantum of award has also not been disputed.

Mr. Amit Ranjan Roy, learned advocate appearing on behalf of the respondent/claimant has submitted that the claim case arose out of an application under Section 163A of the Motor Vehicle Act. Claimant has every right to claim from the Insurance Company in respect of any of the vehicle involved in the accident. Mr. Roy further submitted that there was accident involving two vehicles one is Dumper bearing registration No. WB-37/2817 and one Motor Cycle bearing No. 38Q/0450. Now it is choice of the claimant to claim compensation from any of the Insurance Company of the two vehicles involved in the accident.

It is now trite law that claimant can opt for claim from any of the Insurance Company of the two vehicles involved in the accident.

In the aforesaid view of the matter, I do not find any substance in the argument advanced on behalf of the Mr. Sanjoy Payl, learned advocate appearing on behalf of the Insurance Company. Therefore, claimant is entitled to the award passed by the learned Tribunal i.e. award of Rs.1,20,000/- along with interest in terms of Section 171 of the Motor Vehicles Act. It is reported on behalf of the Insurance Company that at the time of filing of appeal statutory deposit of Rs.25,000/- was deposited in the

office of the Registrar General.

Accordingly, Oriental Insurance Company is directed to deposit the cheque of Rs.1,20,000/- along with interest at the rate of 6% per annum from the date (24.06.2006) of filing of the claim application till the deposit of the same.

Oriental Insurance Company is directed to deposit the cheque before the Tribunal and liberty to withdraw the statutory deposit of Rs.25,000/- from the office of the Registrar General with the all accrued interest.

With the above observation, the appeal being **FMA 205 of 2011** is disposed of.

All pending applications, if there be any, stands disposed of.

Records of the learned Tribunal along with a copy of this order be transmitted back immediately.

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

(Bibhas Ranjan De, J.)