07 & 08
23.11.2023
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No.10322 of 2023
With
W.P.A. No.10325 of 2023

Fabworth Promoters Private Limited & Anr.
Vs.
The New India Assurance Company

Mr. S.N. Mookherji,
Mr. Jaydip Kar,
Mr. Suddhasatva Banerjee,
Mr. Sabrajit Mukherjee,
Ms. Rituparna Chatterjee,
Mr. Dhruv Chadda,
Ms. Khushboo Choudhury,
Mr. Dibyendu Ghosh
...for the petitioners

Mr. Ishaan Saha,
Mr. A.K. Awasthy
...for the respondents

1. Supplementary affidavits filed in both the matters today by the petitioners be kept on record.

2. The learned Senior Advocates appearing for the petitioners in both the matters, which arise out of allegations regarding non-disbursal of insurance dues by the respondent-company, submit that in the meantime, the Insurance Company has served copies of a survey report and an addendum disclosing that certain amounts have been admitted as insurance claims by the respondent.

3. It is contended by learned senior counsel for the petitioners in both the matters that the said

admitted amount be disbursed to the petitioners with liberty to the petitioners to challenge for enhancement of the sum, if the petitioners so deem fit and are entitled to, before the appropriate forum.

4. Learned counsel for the Insurance Company submits that an order of Court may not be necessary in that regard.

5. However, learned senior counsel place reliance on a Circular dated September 24, 2015 of the Insurance Regulatory and Development Authority of India, which mentions that similar circumstance have arisen previously in which the Insurance Company, taking advantage of the settlement intimation voucher, has been taking the plea that the payment was in full and final settlement of the dues.

6. Accordingly, the said Regulatory Authority has advised by the said Circular that where the liability and quantum of claim under a policy is established, the insurers shall not withhold claim amounts; however, it should be clearly understood that execution of such vouchers does not foreclose the rights of policy holder to seek higher compensation before any judicial fora or any other fora established by law.

7. Hence, in consonance with the said Circular, W.P.A. No.10322 of 2023 and W.P.A. No.10325 of

2023 are disposed of by directing the respondent-Insurance Company to disburse the admitted amounts respectively of Rs.34,36,345/- and Rs.2,17,25,504/- in terms of the report filed by the Insurance Company to the respective petitioners at the earliest, positively within a fortnight from date.

8. Upon such payment being made, the petitioners shall issue receipts/discharge vouchers regarding such amounts. However, it is made clear that such payment or the issuance of such receipts/discharge vouchers by the petitioners shall not preclude the petitioners from seeking further enhancement of the amount of insurance claim, over and above that paid by the insurer, before the appropriate forum.

9. There will be no order as to costs.

10. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

Sabyasachi Bhattacharyya, J.