

13.12. 2023
item No.53
n.b.
ct. no. 551

FMAT(MV) 541 of 2023
with
CAN 1 of 2023

Sri Swapan Kumar Pal.
Vs.
Oriental Insurance Company Limited & Anr.

Mr. Jayanta Banerjee,
... for the appellant.
Mr. Rajesh Singh,
..... for the respondent.

In Re. CAN 1 of 2023

This is an application under Section 173 of the M.V.
Act read with Section 5 of the limitation Act for
condonation of delay.

The report of the stamp reporter suggest that there
are 23 days delay in preferring the instant appeal.

Heard the learned advocates for the appellant and
the Insurance Company.

Considering the submission and considering the
ground mentioned in the body of the application, it
appears to me that the grounds are sufficient. So, the
appeal is hereby condoned.

A very short point is involved in this appeal.
Accordingly, in presence of learned advocate for the
Insurance Company, the matter is taken up for hearing.

In Re. FMA(MV) 541 of 2023

The instant appeal has been preferred against the judgment and award dated May 2, 2023 passed by the learned Judge, Motor Accident Claims Tribunal, in M.A.C. case no.280 of 2015.

The brief fact of the case is that the present appellant being the claimant preferred an application before the learned Tribunal for getting compensation on the ground that the present appellant sustained severe injury on 25.2.2015 due to road traffic accident. She sustained injury due to rash and negligent driver of the offending vehicle. The claim case was contested before the learned Tribunal. The learned Tribunal after hearing the parties and after receiving the evidences has awarded a sum of Rs.5,33,788 in favour of the claimants and directed the Insurance Company to pay the compensation within two months, failing which the award was carry interest 9% per annum.

The learned advocate for the appellant submits that he has received entire awarded sum along with interest as directed by the Tribunal. The only ground for appeal is that the learned Tribunal has failed to appreciate the statutory obligation enumerated under Section 171 of the M.V. Act, wherein it has been enumerated. The award shall carry interest from the date of filing of the claim application. In this case, the award is not in conformity with the provision of Section 171 of the M.V. Act.

Learned advocate appearing on behalf of the Insurance Company submits that the learned Tribunal has observed basically in the body of the impugned judgment that the Insurance Company had no latches in proceeding. The instant case before the Tribunal and in that reason, the Insurance Company was directed to pay any interest. So, at this juncture, the ground of appeal only on the point of interest is not maintainable.

Heard the learned advocates and perused the observation of the learned Tribunal regarding the payment of interest, it appears that the learned Tribunal may have not find any illegality regarding the proceeding of the Insurance Company before the learned Tribunal but the mandate of law enumerated under Section 171 of the M.V. Act. It make it clear that the compensation shall carry sufficient interest from the date of filing of the claim application. Accordingly, it appears to me that the observation of the learned Tribunal is erroneous on the point of interest. Hence, the instant appeal is hereby allowed and it has been orders that he compensation of Rs.5,33,788/- shall carry 6% interest per annum from the date of filing of the claim application i.e. from 19.5.2015 to 21.5.2023.

The Insurance Company is directed to pay interest component after calculating the same as per direction of this Court within six weeks from the date of receiving the information.

I make it clear that the appellant is directed to furnish the bank account details to the learned advocate appearing on behalf of the Insurance Company Mr. Rajesh Singh and in turn Mr. Singh shall inform the same to his client. After receiving such information, the Insurance Company shall disburse the same directly through RTGS or NTF to the bank account of the claimant within six weeks thereafter.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Subhendu Samanta, J.)