

28.11.2024
Item No.4
Ct. No.26
CHC
(dismissed)

MAT 189 of 2024
IA NO: CAN/1/2024
CAN/2/2024

Mansura Bibi
Vs.
The Kolkata Municipal Corporation & Ors.

Mr. Bidyut Kumar Halder, Advocate
Mr. Indranil Halder, Advocate
....for the appellant

1. None appears for the respondents despite service.
2. Affidavit-of-service filed in Court be taken on record.
3. CAN/2/2024 is an application seeking condonation of delay in making and filing the appeal.
4. Department reports delay of 78 days.
5. For the ends of justice, the causes shown in the application are accepted as sufficient and the delay of 78 days in making and filing the appeal is condoned.
6. CAN/2/2024 is allowed.
7. CAN/1/2024 is an application seeking stay of the impugned order.
8. The appeal is taken up for final hearing.
9. Appeal is directed against an order of dismissal of the writ petition dated October 10, 2023 passed in WPA No. 10600 of 2023.
10. By the impugned order, learned Single Judge dismissed the writ petition of the appellant seeking

compensation on account of the accidental death of her husband on the ground that, there exists disputed questions of facts and that, noticing the order dated November 21, 2022 passed in the earlier writ petition of the appellant.

11. This is the second writ petition at the behest of the appellant seeking compensation for the accidental death of her husband.
12. Apparently, husband of the appellant suffered a road traffic accident. It is the claim of the appellant that, the Kolkata Municipal Authorities undertook work in a road and kept a ditch open where deceased husband fell and sustained injuries. Subsequently, the deceased husband succumbed to the injuries.
13. We perused the materials on record.
14. Materials on record suggest that, the deceased husband of the appellant was known alcoholic. The accident claimed to take place after 8:30 in the evening on road. The deceased survived the accident for a period of two months. Documents suggest that, deceased was suffering from withdrawal symptom due to his alcoholic nature. Cause of death due to falling into the ditch is not established conclusively. Earlier writ petition of the appellant being WPA 16882 of 2022 was disposed of by an order dated November 21, 2022 by permitting the appellant to approach the appropriate forum for relief. Appellant

chose to approach the Mayor of the Kolkata Municipal Corporation for grant of relief. Mayor of Corporation rejected such claim. Against the order of rejection, the writ petition was filed in which, the impugned order was passed.

15. As noted above, there are disputed questions of fact involved. Learned Judge rightly dismissed the writ petition.

16. M.A.T. 189 of 2024 along with CAN/1/2024 are dismissed without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)