

March 7, 2024
Sl. No.28
Court No.19
s.biswas

CO 627 of 2024

The New India Assurance Co. Ltd.

vs.

Nasira Bibi and others

Mr. Rajdeep Bhattacharya

Mr. Debashis Banerjee

... for the petitioner

Mr. Sirajul Islam

... for the opposite parties

1. This revisional application arises out of an order dated December 1, 2023 passed by the learned Additional District Judge, 15th Court, Motor Accident Claims Tribunal, Alipore, South 24 Parganas in MACC No.850 of 2014, renumbered as MACC 12 of 2016.
2. The learned judge rejected three applications filed by the petitioner/insurance company. The claimants are the heirs of the deceased victim.
3. The applications filed by the petitioner for acceptance of the written statement, for vacating the order by which the proceedings were fixed ex parte and an application under Section 170 of the Motor Vehicles Act, were rejected.
4. The learned court, inter alia, held that several opportunities had been given to the petitioner to file the written statement, but the same had not been filed. The conduct of the petitioner was harassive and PW1 and PW2 had already been examined. Thus, there was no reason to allow the petitioner to contest the proceedings.

5. It appears from the records that the proceedings had been transferred by an administrative order of the learned District Judge to the court of learned Additional District Judge, 15th Court, Motor Accident Claims Tribunal, Alipore sometime in 2015. A few dates were fixed for SR&AD.
6. Although the record reveals that the summons were served upon the petitioner, the learned advocate was not aware of such transfer and did not take adequate steps. The petitioner relied upon the learned Advocate.
7. The insurance company will have to pay the amount as would be adjudicated by the learned court in the proceedings. Thus they are entitled to contest and claim the money from the owner, in view.
8. As the insurance company deals with public money and is a public sector under taking, an opportunity to contest the proceedings should be allowed. The claimants should be compensated with cost as there has been immense delay on the part of the insurance company in appearing before the court to contest the proceedings.
9. Under such circumstances, the order impugned is set aside and insurance company is permitted to contest the proceedings. The order by which the proceeding was fixed for ex parte hearing, is

also set aside. The written statement which is already on record shall be accepted. The application under Section 170 of the Motor Vehicles Act shall be heard on merits again, and necessary orders will be passed.

10. This order is subject to payment of cost of Rs.1,02,000/- to the three claimants equally, by three account payee cheques for the harassment caused to the victim's family on account of such delay. Such payment shall be made within four weeks from date. Thereafter, upon being satisfied that the payment had been made to the claimants and the cheques had been honoured, the court shall allow the written statements to be accepted formally and then proceed with the hearing. It is made clear that the entire proceedings shall be disposed of by the learned court within eight months from the date of communication of this order.

11. The revisional application is disposed of accordingly.

12. All the parties are directed to act on the basis of the server copy of the order.

13. Urgent Photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Shampa Sarkar, J.)