

09.04.2024

Sl.No. 2, 3
Ct.No. 32
Amalranjan

In The High Court At Calcutta
Civil Appellate Jurisdiction

FMA 350 of 2004
With
CAN 1/2024
With
FMA 585 of 2004
With
CAN 2/2004(Old CAN 5646/2004)

Bina Pani Mandal and anr.
Vs.
The Divisional Manager,
National Insurance Co. Ltd. and ors.

Mr. Krishanu Banik.....for the appellants

Ms. Sucharita Paul.....for the respondent/
Insurance company

It is submitted that two separate appeals have been filed against the same judgment and award dated 21.01.2004 passed by the learned Judge, Motor Accident Claims Tribunal (District Judge), Malda in MACC no. 21/2003 by the claimants and Insurance company.

A settlement has been arrived by and between the parties and finally the matter has been settled by the Lok Adalat dated 13th August, 2022 in FMA 585 of 2004. Accordingly, there is no need to pass further other order in the instant case.

In spite of the said facts, this court passed an order dated 18.12.2023 in presence of

both the parties, but none of the parties informed this court that matter has already been disposed of by the Lok Adalat on 13.8.2022 at the time of arguments. Most probably due to inadvertence.

Under such circumstances, the judgment and award passed by this court vide order dated 18.12.2023 in another appeal being FMA 350 of 2004 challenging the same judgment and award dated 21.01.2004 passed by the learned Judge, Motor Accident Claims Tribunal (District Judge), Malda in MACC no. 21/2003 is hereby recalled, since two judgments cannot be passed in a same and similar matter arises from same impugned judgment and award.

Under such circumstances, prayer for recalling of judgment and award as aforesaid is considered and allowed. The application being CAN 1/2024 is, thus, disposed of with the above observation without any order as to costs.

Let a copy of this order be communicated to the learned Tribunal for information immediately.

Urgent certified photocopy of this order, if applied for, be supplied to the parties taking all legal formalities.

(Ajay Kumar Gupta, J.)