

21-02-2024
Court No.3.
SI No.38.
Mithun

**In The High Court At Calcutta
Jalpaiguri Circuit Bench
FMAT 1 of 2020**

Smt. Sumitra Bhadra
-Vs-

The Divisional Manager, United India
Insurance Company Ltd. & Anr.

Mr. Gobinda Saha,
Ms. Priyanka Dey,
Mr. Milan Ch. Laskar
Mr. Salok Sah

...for the appellant.

Mr. Rishin Chakraborty

...for the respondent/Insurance Company.

1. Challenge of this appeal is the judgment and award dated 19th September, 2018 passed by the learned Commisioner, Employees' Compenssation, North Bengal Region at Jalpaiguri on the ground of liability of the Insurance Company particularly. The only substantial question involves in this appeal is that whether Insurance company is liable to pay the compensation to the claimant.
2. Learned Advocate on behalf of the appellant has submitted that the award was passed in the year 2018. Till date, the same was not paid to the claimant.
3. Learned Advocate on behalf of the appellant has further relied on a case of ***Mahendra Rai Vs. United India Insurance Co. Ltd. & Anr.*** reported in ***2015 ACJ 2663*** where the Hon'ble Apex Court observed in Paragraph 5 as under:
"5. Learned counsel for the insurance company submitted that the Commissioner has no jurisdiction under the Act to direct the insurance

company to pay the compensation; it is the owner who is liable to pay. However, such submission cannot be accepted in view of the fact that the vehicle is insured with the insurance company and that without giving any reason the High Court held that the insurance company at the first instance had no liability to meet the award of compensation and doubted the maintainability of the order passed by the Commissioner. We are of the view that after such observations already made the remand of the case will be futile. In fact, we find no error in the order passed by the Commissioner under the Workmen's Compensation Act, 1023."

4. Learned Advocate appearing on behalf of the petitioner has contended that Insurance Company is not liable to pay the compensation under the Act. He tried to make this Court understand that the Insurance Company not liable to pay the interest which is not the part of the award. But I am not agreeable with Mr. Rishin Chakraborty, learned Advocate on behalf of the respondent that interest part is not included in the award. In terms of the Workmen's Compensation Act, claimants are entitled to interest on the award.
5. In the aforesaid view of the matter, particularly the ratio of **Mahendra Rai(supra)**, no other option is left to this Court but to modify the order impugned with the direction upon the respondent No.1/Insurance Company to deposit the entire awarded amount with interest to the claimant within 6 weeks from the date of this order, in the office of the learned Registrar, Circuit Bench at Jalpaiguri.
6. Learned Registrar, Circuit Bench at Jalpaiguri is requested to disburse the amount accordingly on verification of the identity of the claimant.

7. However, respondent No.1/Insurance Company is at liberty to realize the entire awarded amount with interest from the owner, respondent No.2 by filing execution case directly in terms of principle laid down by the Hon'ble Apex Court in the case of ***Oriental Insurance Co. Ltd. Vs. Shri Nanjappan & Ors.*** reported in ***2004 ACJ 721.***
6. With the aforesaid observations, the appeal stands disposed of.
7. Photostat website certified copy of this order, if applied for, be supplied to the parties subject to compliance of all requisite formalities.

(Bibhas Ranjan De, J.)

