24.09.2025
Sl.No.189-190.
D/L
Ct. No.33
Mithun

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

F.M.A. 551 of 2022

The Oriental Insurance Company Limited

Versus

Manjur Alam Khan

With

COT 33 of 2022

Manjur Alam Khan

Versus

The Oriental Insurance Company Limited & Anr.

Mr. Rajesh Singh
…for the appellant/Insurance Company.

Mr. Jayanta Kumar Mandal

…for the respondent/claimant.

The learned Advocate representing the appellant/Insurance Company has disputed the last income tax return filed by the respondent/claimant on 18.05.2016 for the Assessment Year 2015-2016 and 2016-2017 on the same date after 3 months of the occurrence of the accident. It was further submitted that the respondent/claimant being a proprietor of a firm dealing in contractual job had cited the Auditor as P.W.8 to prepare the balance-sheet who had placed the audited-sheet marked as Exhibits.27, 28, 29 and 29/1.

It was further submitted the respondent/claimant did not file any income tax return document prior to the occurrence of the accident raising suspicion of the income tax return filed after the occurrence of the accident to be manipulatively manufactured.

The learned Advocate representing the respondent/claimant submitted the same to have been dealing with contractual job based on the trade licence issued by the concerned Municipal Authorities though the respondent/claimant did not file any income tax return prior to the date of the accident. However, the same had been dealing with contractual and labour job as mentioned in the audit report.

The audit report filed by the Auditor deposing before the learned Tribunal as P.W.8 had placed only the report and the balance-sheet which had been challenged by the learned Advocate representing the appellant/Insurance Company. The income from the business for the purpose of computation of tax was to the extent of Rs.3,54,240/- which had been a taxable amount. The respondent/claimant to have been engaged in similar activities for the past years should have filed income tax return accordingly. The learned Tribunal is to adduce further evidence through summons issued to P.W.8 as well as the claimant being P.W.1 to produce relevant documents and the bank statement based on which the categories with regard to purchase, carried in work, labour charges, side expenses etc. have been mentioned in the documents marked as Exhibit.28 for the purpose of evaluating profit and loss for the year ending with 31st March, 2015 and the balance-sheet thereafter.

The Auditor did not file any similar document with regard to the profit and loss and balance-sheet for the year 2016 for assessment of income tax as per the assessment year 2016-2017. The learned Tribunal is to summon both P.W.1 and P.W.8 and complete recording of the evidence within a period of a week on and from 3rd November, 2025 till 10th November, 2025.

The learned Advocates representing both the parties are to assist the learned Tribunal in recording further evidence of P.W.1 and P.W.8.

The entire case record to be transmitted to this Court by 18th of November, 2025.

The department is directed to send the entire case record to the Court of the learned Tribunal by 26th of September, 2025.

(Ananya Bandyopadhyay, J.)