

JPS-19
Ct No.01
24.07.2025
AK

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Civil Appellate Jurisdiction

FMAT (MV) 24 of 2022
IA No: CAN 1 of 2025
CAN 2 of 2025

National Insurance Company Limited
Vs
Smt. Ratna Singh (Roy) and others

Mr. Bikramaditya Ghosh
Ms. Supriya Singh

.... for the appellant.

Mr. Abhijit Raha

...for the respondent no.1.

In Re: CAN 1 of 2025

1. CAN 1 of 2025 is an application for condonation of delay of about four days in preferring the appeal in view of sufficient reasons for the delay having been explained.
2. Accordingly, CAN 1 of 2025 is allowed without costs, thereby condoning the delay in preferring FMAT (MV) 24 of 2022.

In Re: FMAT (MV) 24 of 2022
With
CAN 2 of 2025

3. The appeal is taken up for admission hearing.
4. It transpires that a previous appeal preferred by the present respondent no.1 against the self-same

award has already been disposed of by a co-ordinate Bench of this Court.

5. By application of the principle embodied in Order XLI Rule 33 of the Code of Civil Procedure, it was open to the Appellate Court in the appeal filed by the present respondent no.1 to pass any decree or further decree even in favour of the present appellant, who was one of the respondents therein, despite the said respondents therein not having preferred any independent appeal or objection.
6. Thus, by application of the principle of Order XLI Rule 33 of the Code as well as constructive *res judicata*, the points sought to be urged in the present appeal could very well have been urged and decided before the Appellate Court in connection with the previous appeal filed by the present respondent no.1.
7. As such, the disposal of the previous appeal against the self-same award, where the present appellant was also a party, conclusively determined all issues between the parties in every regard.
8. Hence, the present appeal has been rendered infructuous by virtue of the adjudication in the previous appeal, although at the instance of a different party, against the self-same award.

9. Accordingly, FMAT (MV) 24 of 2022 is dismissed as infructuous.
10. Consequentially, CAN 2 of 2025 is also disposed of.
11. There will be no order as to costs.
12. Urgent certified copies, if applied for, be given to the parties upon compliance of all formalities.

(Sabyasachi Bhattacharyya, J.)