F.M.A.T.142 of 2018
IA NO: CAN/1/2018 (Old No: CAN/1861/2018)
CAN/2/2018 (Old No: CAN/1863/2018)
(Physical Hearing)

National Insurance Company Vs. Rusi Bibi & ors.

Mr. M. P. Chakraborty Ms. Ratnadipa Karmakar

...for the appellant/Insurance

In Re: CAN 1 of 2018 (Old No: CAN/1861/2018)

The present CAN application is relatable to a prayer for condonation of delay.

Learned advocate for the appellant has attempted to explain the delay caused in preferring the appeal thereby explaining the delay in the relevant averments of application.

Mr. Chakraborty, learned advocate representing the appellant/Insurance Company submits that there has been huge delay caused in preferring the appeal which must be taken in view, while considering the prayer for condonation of delay.

Upon perusal of the relevant averments contained in the pleadings, it appears that the delay has been successfully explained and appellant/claimant was prevented by sufficient causes from preferring the appeal within the statutory period of limitation. The delay being sufficiently explained, the delay caused in preferring the appeal stands condoned.

Accordingly, the application for condonation of delay being CAN/1/2018 (Old No.CAN/1861/2018) stands disposed of.

This is an insurance appeal preferred by National Insurance Company, as appellant, wherein the judgement and award dated 13th day of September, 2017, passed by learned Tribunal Judge, Motor Accident Claim Tribunal/ learned Additional District Judge, Fast Track 3rd Court, Malda, in M.A.C. Case No.30 of 2016, granting award to the tune of Rs.4,41,500/- to the respondents is under challenge.

Mr. Chakraborty, learned advocate for the Insurance/appellant submits that the Insurance Company has already deposited the statutory amount before the learned Registrar General of this Court.

It is contended that unless order of stay is granted in this case, the learned court below may proceed upon executing the award, since the execution case has already been started, and there is fair chance of getting the award executed in the meantime.

It is contended by the learned advocate for the Insurance that the learned Tribunal had

inappropriately assessed the award requiring a revisit for just decision in this appeal.

In such context, appellant proposes for interim stay of execution of award.

When appellant has already deposited statutory amount and when there is chance of getting the award executed by the Tribunal, let there be an order granting interim stay of execution of award, subject to the condition that the appellant/Insurance the Company shall deposit awarded sum Rs.4,41,500/- with 6% interest from the date of filing of this claim application before the Registrar General of this Court within three (03) weeks from the date of order. It is further clarified that upon such deposit being made within the period mentioned hereinabove, the interim order of stay may be continued till the decision of appeal. In the event of failure of such deposit with the learned Registrar General within a period stipulated hereinabove, the interim stay order granted in the appeal shall automatically stand vacated without making any further reference to the Insurance Company.

The Registrar General is directed to invest the deposit amount in a short term interest earning auto renewal fixed deposit scheme in any of the nationalized bank, which shall not be permitted to be withdrawn by the respondents without any order of the Court.

The appellant is directed to serve copy of the CAN application upon all the respondents, and his learned advocate appearing in the court below by Speed Post with Acknowledgment Due and furnish affidavit of service on the returnable date, intimating that the matter will appear in the list four weeks after.

List the matter four weeks after under the same heading.

(Subhasis Dasgupta, J.)