

IN THE HIGH COURT OF JHARKHAND AT RANCHI

[Civil Miscellaneous Appellate Jurisdiction]

M.A. No. 130 of 2018

Divisional Manager, Bajaj Allianz General Insurance Co. Ltd., Ranchi

.... .. Appellant(s)

Versus

1.Turi Majhiyan @ Turi Tudu

2.Ubit Manji

3.Malati Majhiyan

4.Nirmal Tudu

5.Sanaka Tudu

6.Permanent Fincon Private Limited C/o Milan Parkariya, S/o Pravin Parkariya, resident of VIP Colony, Polytechnic Road, P.O. & P.S. Dhanbad, District-Dhanbad.

.. .. Respondent(s)

.....
CORAM :HON'BLE MR. JUSTICE KAILASH PRASAD DEO
(Through :-Video Conferencing)

.....
For the Appellant(s) : Mr. Alok Lal, Advocate
Mr. Santosh Kumar, Advocate
For the Resp. 1 to 4 : Mr. Zaid Ahmed, Advocate

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04 / 26.03.2021. Heard, learned counsel for the parties.

Learned counsel for the appellant has submitted that appellant- Bajaj Allianz General Insurance Co. Ltd. has preferred the instant Misc. Appeal against the Award dated 25.11.2017 passed by learned District Judge-III Cum Presiding Officer, Motor Vehicle Accident Claims Tribunal, Dhanbad, in Title (MV) Suit No.46 of 2016, whereby, the claimants, 1.Turi Majhiyan @ Turi Tudu, 2.Ubit Manji, 3.Malati Majhiyan, 4.Nirmal Tudu and 5.Sanaka Tudu have been awarded compensation to the tune of Rs.42,24,326/- along with interest @6% per annum from the date of institution of claim application i.e. 08.02.2016 to be paid within 60 days failing which, the claimants shall be entitled for interest @9% per annum after sixty days.

Learned counsel for the appellant has submitted that the learned Tribunal ought to have given right of recovery in absolute form in favour of the Insurance Company though the learned Tribunal has held that Insurance Company/Opp. Party No.2 is free to recover the compensation amount from Opp. Party No.1, if there is violation of terms and conditions of the policy.

Learned counsel for the appellant has further submitted that in compliance of the order dated 04.10.2018, passed by Co-ordinate Bench, notices have been issued to the respondents, including the owner of the vehicle with direction to the appellant Bajaj Allianz General Insurance Co. Ltd. to deposit Rs.21 Lac by 26.11.2018, in Civil Misc. Case No.46 of 2018.

Learned counsel for the claimants/respondents has submitted that I.A. No.9859 of 2019 has been filed for vacating the stay as liberty has been granted vide order dated 04.10.2018 by Co-ordinate Bench of this Court, as such, the claimants may be given Rs.21 Lacs, as this amount is not fetching any interest before the Executing Court and the said amount has been deposited by the Insurance Company. Pendency of this appeal before this Court will cause prejudice to the appellant- Insurance Company by directing to pay interest on entire amount otherwise the claimants shall suffer loss of interest on the aforesaid amount, as because the Insurance Company will take plea that the said amount, has already been deposited in Civil Misc. Case No.46 of 2018 pursuant to the directions passed by the Co-ordinate Bench vide order dated 04.10.2018.

Learned counsel for the appellant- Insurance Company has submitted that owner of the vehicle has not appeared in this case though notice has been issued and served.

From perusal of the office notes, it appears that valid service report upon respondent Nos.1 to 6 have been received and kept at Flag-F. Respondent Nos.1 to 4 have already appeared.

Respondent No.5 (Sanaka Tudu, D/o Late Ravi Manjhi @ Ruby Manjhi has not appeared.

Respondent No.6 [Permanent Fincon Private Limited C/o Milan Parkariya, S/o Pravin Parkariya, resident of VIP Colony, Polytechnic Road, P.O. & P.S. Dhanbad, District- Dhanbad] has also not appeared even though notice has been served through elder sister-in-law of respondent No.6 on 20.11.2018, but till date he has not appeared.

Under the aforesaid circumstances, City Superintendent of Police, Dhanbad is directed to to executeailable warrant of arrest of Rs.5,000/- with two sureties upon the respondent No.6 [Permanent Fincon Private Limited C/o Milan Parkariya, S/o Pravin Parkariya, resident of VIP Colony, Polytechnic Road, P.O. & P.S. Dhanbad, District- Dhanbad] by the Officer-in-Charge, Dhanbad Police Station after ascertaining the address, if requires, from the D.T.O., Dhanbad.

Learned counsel for the appellant has submitted that so far contention regarding payment of the amount of Rs.21 Lac is concerned, that may be adjudicated at the time of final disposal of this appeal.

Learned counsel for the claimants/respondents has submitted that the occurrence is of dated 27.09.2015, as such, the said amount may be released in favour of the claimants.

Considering the same, since one of the claimants (claimant No.5) has not appeared before this Court, as such, the learned Tribunal shall release the amount to the claimants in terms of the Award passed by the learned Tribunal after due verification and in accordance with law, after ensuring that minor should not be deprived of the compensation amount.

The Dhanabd Police after executingailable warrant of arrest must file an affidavit before this Court at the earliest.

The learned Registrar General of this Court is directed to bring a standard operation procedure before this Court with regard to deposit of the claim/compensation amount before the learned Tribunal during pendency of the appeal so that the same may fetch interest, which may not cause any prejudice to the claimants or to the insurance company at the time of final disposal of appeal.

It is expected that the learned Registrar General of this Court will come up with such standard operating procedure within a period of three weeks from today.

Let a copy of this order be communicated through "FAX" to the City Superintendent of Police, Dhanbad at once.

Let a copy of this order be handed-over to the learned Registrar General of this Court for needful.

Let the case be listed after four weeks.

I.A. No.9859 of 2019 stands disposed of.

(Kailash Prasad Deo, J.)

Sandeep/