

(2018) 04 CAL CK 0082

In the Calcutta High Court

Case No : CAN 2512 of 2017 With CAN 2141 of 2018 in F.M.A.T. 199 of 2017

THE KOLKATA MUNICIPAL CORPORATION

APPELLANT

Vs

PARBATI DAS

RESPONDENT

Date of Decision : 13-04-2018

Acts Referred:

Motor Vehicles Act, 1988 — Section 173

Citation : (2018) 04 CAL CK 0082

Hon'ble Judges : DIPANKAR DATTA, J;PROTIK PRAKASH BANERJEE, J

Bench : Division Bench

Advocate : Tamal Kanti Roy, Parbati Das

Final Decision : Allowed

Judgement

This appeal under Section 173 of the Motor Vehicles Act, 1988 is directed against the judgment and award dated 22nd August, 2016, passed by the

Motor Accident Claims Tribunal-cum-7th Additional District Judge, Alipore, 24Parganas (South) in M.A.C. Case No. 175 of 2016. By the said award,

the tribunal directed the appellant to compensate the claimant/respondent, widow of the victim of a motor vehicular accident, in a sum of Rs.10,

46,000/- together with interest @ 6% per annum from the date of filing of the claim application till realisation within a month, failing which the claimant

was given liberty to execute the award through process known to law.

The appeal is barred by 92 days delay. While CAN 2512 of 2017 has been presented by the appellant for condonation of delay in presentation of the

appeal, CAN 2141 of 2018 is an application seeking stay of the impugned judgment and award.

The appellant is represented by Mr. Tamal Kanti Roy, Assistant Manager (Law)/ Law Officer, Kolkata Municipal Corporation, duly authorised by its

commissioner. The authorisation shall be retained with the records. The claimant/respondent appears in person.

We have heard the parties at some length. Since execution proceedings have been initiated by the claimant/respondent and the executing court has

directed the appellant to deposit the sum awarded along with interest by 17th April, 2018, we are of the view that interest of justice would be best

served if the appellant deposits such sum with the executing court by the date stipulated by it. Upon such deposit being made, the tribunal shall ensure

that the entire sum, less Rs.3, 00,000/- (Three Lacs), is invested in a short term auto renewable fixed deposit account of a nationalised bank until

further orders are passed on the applications by this Court. On such deposit, all further proceedings of Execution Case No. 1 of 2018 pending before

the executing court shall remain stayed; in default thereof, the executing court shall be at liberty to proceed in accordance with law.

The victim passed away leaving behind him the claimant/respondent, a one year old son and the victim's mother. Since it has been submitted that

the claimant/respondent and the surviving heirs of the victim are in serious financial distress, we also direct that the claimant/respondent shall be

entitled to receive the said sum of Rs.3, 00,000/- (Three Lacs). The executing court shall ensure that she receives the same without any delay but

obviously in accordance with law.

It is made clear that receipt of Rs.3, 00,000/- (Three Lacs) by the claimant/respondent shall be without prejudice to the rights and contentions of the

parties in the appeal. We record her undertaking to refund the said sum of Rs.3,00,000/- (Three Lacs), should upon final hearing of the appeal, the

Court allows the same.

The claimant/respondent shall be entitled to file affidavits-in-opposition to the applications within two weeks; reply thereto, if any, may be filed a week

thereafter.

List the application for condonation of delay (CAN 2512 of 2017) as well as the application for stay (CAN 2141 of 2018) in the monthly list of May,

2018, under the heading 'Applications'.