

(2010) 11 CAL CK 0045

Calcutta High Court

Case No: E.M.A. No. 912 of 2010

Sarif Md. Mullick

APPELLANT

Vs

National Insurance Co. Ltd. and
Another

RESPONDENT

Date of Decision: Nov. 12, 2010

Acts Referred:

- Motor Vehicles Act, 1988 - Section 166(2)

Citation: (2011) ACJ 1451 : (2011) 2 TAC 65

Hon'ble Judges: M.K. Chaudhuri, J; Amit Talukdar, J

Bench: Division Bench

Advocate: Abu Abbas Uddin and Sk. Abu Abbas Uddin, for the Appellant; Rajesh Singh, for the Respondent

Judgement

M.K. Chaudhuri, J.

The point raised in this appeal is with regard to the territorial jurisdiction of the learned Tribunal to entertain the Claim Petition. The learned Trial Court dismissed the claim case on the ground of lack of territorial jurisdiction as the Claimant used to reside in the District of Hooghly.

2. We have heard the submissions made on behalf of the Appellant/ Claimant and the Insurance Company and have considered the same. The learned Advocate for the Insurance Company invited our attention to the provision of Sub-section (2) of Section 166 of the Motor Vehicles Act, 1988 and submits that the learned Trial Court has rightly dismissed the claim case of the Appellant. We have carefully gone through the said provision. But the fact remains that the office of the Insurance Company is situated in Kolkata, which is within the jurisdiction of the City Civil Court, Calcutta.

3. Since, the Insurance Company is to pay compensation in the event the Appellant/Claimant is able to prove his case, we are of the considered view that the

Insurance Company would not be at all prejudiced as the office of the Insurance Company is situated in Kolkata and there is no dispute over this matter. If no prejudice is caused to the Insurance Company or to the Appellant, the learned Trial Court has sufficient jurisdiction to entertain the Claim Application as held by the Hon"ble Supreme Court of India in the case of Mantoo Sarkar v. Oriental Insurance Co. Ltd. and Ors. 2009 (1) T.A.C. 434 (S.C.).

4. Therefore, the judgment and order passed by the learned Trial Court is set aside. The case is remanded to the learned Trial Court to decide the Claim Application on merit in accordance with law after giving opportunity to the parties to adduce evidence as expeditiously as possible.

5. Appeal accordingly, stands disposed off. There will be no order as to costs.

Let a copy of this judgment alongwith the Lower Court Record be sent down to the learned Trial Court forthwith.

Urgent xerox certified copy of this order, if applied for, be supplied on priority basis.