



ANN M. SEIDER v. FREDERICK G. KOEHLER ET AL.

578 N.Y.S.2d 294 (1991) | Cited 0 times | New York Supreme Court | November 15, 1991

Order unanimously reversed on the law without costs and motion granted.

The court erred in denying the motion of plaintiffs Michael Mathews and Ann Mathews Seider for an order directing that the entire insurance proceeds from the liability insurance policy insuring defendants Frederick A. and Frederick G. Koehler be paid to them. Those plaintiffs were the first in time to execute on their judgment and therefore were entitled to satisfy their judgment from the proceeds of that insurance policy (CPLR 5234 [b]). The court also erred in failing to direct the payment of additional interest on the insurance policy proceeds. In a prior order from which no appeal was taken, the court directed the insurer to pay those proceeds into an insured bank account within 10 days of service of its order, to be discharged of further liability to pay interest. The deposit of the proceeds should have been made no later than June 1, 1989 but was not in fact made until October 12, 1989. Plaintiffs Mathews and Seider are entitled to statutory interest from June 1, 1989 to October 12, 1989 (CPLR 5004) and to the daily compounded interest rate at Manufacturers & Traders Trust Company, where the proceeds were deposited, on that sum of statutory interest, from October 12, 1989. (Appeal from Order of Supreme Court, Erie County, Fudeman, J.--Enforce Judgment.)

