

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

FMAT 1093 of 2009

Kina Das & Anr.
Vs.
Cholamandalam MS General
Insurance Company Limited & Anr.

Mr. Amit Ranjan Roy
... For the appellants/claimants

Mr. Rajesh Singh
... For the respondent no.1/Insurance Co.

This appeal is directed against the judgment and award dated on 7th February, 2009 passed by the learned Judge, Motor Accident Claims Tribunal and Additional District Judge, 4th Court, Krishnagar, Nadia, in connection with MAC Case No.119 of 2006 under Section 163A of the Motor Vehicles Act, 1988.

The claim case arose out of an incidental death of a five-year-old girl child by the involvement of one Tata Sumo, bearing registration no.WB-24C/6420, while the said girl was in the road in front of her house. First Information Report was lodged and Hanskhali Police Station Case No.0292 dated 21st February, 2005 under Sections 279/338/304A of the Indian Penal Code was started and the claim petition was filed with the claim of Rs.1,60,000/-.

The respondent no.1/ Cholamandalam MS General Insurance Company Limited contested the claim petition

by filing the written statement denying all averments made in the claim petition contending, inter alia, that the claimants are not entitled to any compensation.

In course of trial, the father of the victim was examined as PW-1 who testified the accidental death of his daughter, aged about five years. PW-2 claiming himself to be an eyewitness also deposed before the learned Tribunal and corroborated the accident.

Considering the evidence on record, the learned Tribunal awarded Rs.1,52,000/- a compensation.

This appeal has been filed only on the ground of non-compliance of Section 171 of the Motor Vehicles Act, 1988 by the learned Judge of the claim Tribunal.

Mr. Amit Ranjan Roy, learned advocate appearing on behalf of the appellants/claimants and Mr. Rajesh Singh, learned advocate appearing on behalf of the respondent no.1/Insurance Company have also submitted that this appeal has been preferred only on the ground of non-compliance of Section 171 of the Motor Vehicles Act, 1988 by issuing order of interest from the date of filing of the claim petition till the deposit of the amount.

It is reported that the appellants/claimants have already received Rs.1,52,000/- as awarded by the learned Tribunal.

In these circumstances, the respondent no.1/ Insurance Company is directed to deposit interest @ 6%

per annum on the awarded amount of Rs.1,52,000/- from the date of filing of the claim petition till the date of receipt of the awarded amount of Rs.1,52,000/- by the appellants /claimants, before the office of the learned Registrar General of this Court, within six weeks from the date of this order, if not already paid.

The appellants/claimants will be entitled to withdraw the amount towards interest.

The learned Registrar General is requested to disburse the amount towards interest to the appellants/claimants in equal share on proper identification.

With the above observation, the appeal, being FMAT 1093 of 2009, stands disposed of.

All pending applications, if there be any, stand disposed of.

A copy of this order be forwarded to the learned Tribunal immediately.

Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

(Bibhas Ranjan De, J.)