13.05.2024
SL No.6
Court No.25
Ali

IN THE HIGH COURT AT CALUTTA
Civil Appellate Jurisdiction

F.M.A. 203 of 2023

The New India Assurance Co. Ltd. & Anr.
Vs.
Ruhul Amin & Ors.

Ms. Sucharita Paul
………..for the appellant-insurance Co.

Mr. Jayanta Kumar Mondal,
Mr. Sayantan Rakshit,
……for the respondents No. 1 & 2/claimants.

The instant appeal appears under the heading ***"To Be Mentioned".***

Mr. Mondal appearing on behalf of respondent Nos. 1 and 2 submits that the respondent has also preferred a cross appeal being COT 79 of 2024 against the same award. Let the COT No. 79 of 2024 be listed in today's list.

Let both the appeal and the cross appeal be taken up for hearing altogether. It appears that the instant appeal has been preferred against the judgment and award dated 27th day of August, 2019, passed by the learned Judge, Motor Accident Claims Tribunal, ADJ, Fast Track court, Rampurhat, Birbhum, in MAC Case no. 34 of 2015.

The parents of a victim, namely, Lutful Hoque who died in a road traffic accident on 08.03.2015 filed an application before the learned

Tribunal under Section 163-A of M.V. Act for getting compensation.

The claim case was contested by the Insurance Company by filing written statement.

The learned Tribunal after hearing the parties and after receiving the evidences has awarded a sum of Rs.5,00,000/- in favour of the claimants by virtue of the amendment of 2nd Schedule of M.V. Act dated 22.05.2018.

Being aggrieved by and dissatisfied with the said award the Insurance Company has preferred the instant appeal on the ground that the instant appeal was preferred in the year 2015 and the Notification of amendment dated 22.05.2018 has no retrospective effect.

The claimants have preferred the Cross appeal on the ground that the learned tribunal has not awarded any interest on and upon the awarded sum.

Head the learned advocates perused the materials on record also perused the impugned judgment. It appears that the Hon'ble Division Bench of this Court in ***Urmila Halder Vs. New India Assurance Co. Ltd. & Ors.*** has considered this issue and is of opinion that in all the pending appeal and application under Section 163-A of M.V.

Act, the Notification dated 22.05.2018 will have a retrospective effect.

The New India Assurance Company Ltd. has challenged the said observation. The Apex Court has decided the issue by affirming the order passed by the Hon'ble Division Bench of this Court. The observation of Hon'ble Apex Court passed in ***New India Assurance Company Ltd. Vs. Urmila Halder*** is read as follows:

> ***"10. The order of the High Court is well discussed and we agree with the view taken. We may, however, add that a beneficial legislation would necessarily entail the benefit to be passed on to the claimant in the absence of any specific bar to the same. In the present case, the liability of the appellant-insurance Company has not been interfered with. Only the computational mode and the modality have been further clarified, which rightly has been noted by the High Court and accordingly, the claim has been enhanced to Rs. 5,00,000/- (Rupees Five Lakhs). As 50% of the compensation amount was stayed by this Court, the same be paid to the respondent in terms of the impugned judgment within eight weeks".***

Considering the observation of Hon'ble Apex Court as above I find no justification to entertain the instant appeal filed by the Insurance Company. It appears that the award passed by the learned tribunal is appears to me correct and the claimants are entitled to get the amount of Rs. 5,00,000/- as per the Notification dated 22.05.2018. It further appears that the learned tribunal has not awarded any interest upon the said awarded amount. According to the provision of Section 171 of M.V. Act. the learned tribunal should have award interest on and upon the awarded sum.

On that score, it appears to me that the award of the learned tribunal requires some modification. Hence, it is ordered that the award shall carry interest @ 6% per annum from the date of filing of the claim application till date when the Insurance Company has deposited the entire award with the office of the learned Registrar General, High Court, Calcutta. The office of the learned Registrar General, High Court, Calcutta is directed to disburse the amount along with accrued interest in favour of the claimants equally within four weeks from the date of passing of this order.

The Insurance Company is further directed to deposit the interest portion to the office of the learned Registrar General, High Court, Calcutta within six weeks from the date of passing of this order.

Accordingly, the applications being **FMA 203 of 2023** along with **COT 79 of 2024** are disposed of.

All connected applications, if any, stand disposed of.

Interim orders, if any, stand vacated.

Parties to act upon the server copy and urgent certified copy of this order be provided on usual terms and conditions.

(Subhendu Samanta, J.)