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IN THE HIGH COURT AT CALCUTTA

CIVIL APPELLATE JURISDICTION

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 293 of 2022

Samsuddin Sekh & Anr.

-Vs-

Shriram General Insurance Co. Ltd. & Anr.

For the Appellants/claimants : Mr. Amit Ranjan Roy
Mr. Pradyut Kumar Roy

For the respondent Nos. 1/insurance co. : Mr. Rajesh Singh

Heard on : 05.09.2024

Judgment on : 09.09.2024

Ananya Bandyopadhyay, J. :-

1. The Learned Advocates for the appellants/claimants as well as the respondents/insurance company are present.
2. The instant appeal has been filed against the judgment and order dated 30th September, 2019 passed by the Judge, Motor Accident Claims Tribunal, Fast Track Court, Suri, Birbhum in MAC Case No.41 of 2017 under Section 163A of the Motor Vehicles Act, 1988.
3. The application under Section 163A of the Motor Vehicles Act, 1988 was filed before the Motor Accident Motor Accident Claims Tribunal, Fast Track Court, Suri, Birbhum in MAC Case No.41 of 2017 on account of death of the victim in an accident which

occurred on 4th January, 2017 involving the offending vehicle being truck bearing registration No. WB-37B-7044 at Badsahi Road near Nakpur Check Post. The victim succumbed to his injuries at Nalhati BPHC.

4. The Learned Advocate for the respondent No.1/insurance company did not dispute the occurrence of the accident nor the other ancillary issues including the involvement of the offending vehicle, validity of the driving licence and insurance policy etc.
5. Considering the judgment of the Hon'ble High Court in Urmila Halder v. The New India Assurance Company Ltd¹. and the same being affirmed by the Supreme Court in Special Leave Petition² and the notification dated 22nd May, 2018, the appellants/claimants are entitled to Rs.5,00,000/- towards just compensation with regard to second schedule 1(a) and notification dated 22nd May, 2018 and also the aforesaid observations of the High Court at Calcutta and the Hon'ble Supreme Court.

The second schedule 1(a) is as follows: -

*“Fatal Accidents:
Compensation payable in case
of Death shall be five lakh
rupees.”*

6. The impugned judgment passed by the aforesaid tribunal is modified to the extent of Rs. 3,45,500/- (Rs.5,00,000-Rs.1,54,500/-) along with interest to be paid at the rate of 6 % per annum from the date of filing of the application till the date

¹ 2019(2)TAC 143

of its actual realization. The Learned Advocate for the appellants/claimants submitted to have received the compensation of Rs. 1,54,500/-.

7. The Learned Advocate for the respondent Nos. 1/insurance company is to deposit the balance sum of Rs. 3,45,500/- along with 6 % per cent interest per annum from the date of filing of the claim application i.e. 14.02.2017 before the office of the Learned Registrar General, High Court Calcutta within six weeks from the date of passing of this order.
8. On receipt of the said amount, the office of the Registrar General, High Court, Calcutta shall encash the said cheque and thereafter disburse the same to the present appellants as mentioned in the award granted by the Judge, Motor Accident Claims Tribunal, Fast Track Court, Suri, Birbhum in MAC Case No.41 of 2017 on proof of proper identification of the appellants/claimants subject to payment of *ad valorem* Courts fees.
9. The instant appeal is disposed of accordingly.
10. The lower court records be sent to the concerned tribunal forthwith
11. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)

² Special Leave Petition(Civil) No. 6260 of 2019