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IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 754 of 2022

Jabbar Sk. & Anr.

-Vs-

M/s. Bajaj Allianz General Insurance Co. Ltd. & Anr.

For the Appellants/claimants : Ms. Sima Ghosh

For the respondent Nos. 1/insurance co. : Mr. Soumalya Ganguli

Heard on : 07.10.2024

Judgment on : 07.11.2024

Ananya Bandyopadhyay, J. :-

1. The Learned Advocates for the appellants/claimants as well as the respondent Nos. 1/insurance company are present.
2. The instant appeal has been filed against the judgment and order dated 22nd December, 2021 passed by the learned Judge, Motor Accident Claims Tribunal, Berhampur, Murshidabad in MAC Case No. 278 of 2012 under Section 163A of the Motor Vehicles Act, 1988. The learned tribunal has disposed of the issues framed and granted the compensation to the tune of Rs. 2,02,565/- including interest of Rs. 43,065 at the rate of 3 % to be paid to the appellants/claimants.
3. The application under Section 163A of the Motor Vehicles Act, 1988 was filed before the learned Judge, Motor Accident Claims

Tribunal, Berhampur, Murshidabad in MAC Case No. 278 of 2012.

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. 3,40,500/- (Rs.5,00,000-Rs. 1,59,500/-) along with interest to be paid at the rate of 6 % per annum from the date of filing of the application till the date of its actual realization.

¹ 2019(2)TAC 143

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

7. The learned advocate for the appellants/claimants are entitled to receive Rs. 3,40,500/- along with 6 % interest from the date of filing of the claim application till the satisfaction of the said amount. Out of the above, the appellants/claimants submitted that they have received the principal awarded sum of Rs. 1,59,500/- along with interest Rs. 43,065/- amounting to Rs. 2,02,565/-. Now, the respondent Nos.1/insurance company is directed to calculate the balance amount along with interest which the appellants/claimants are entitled to receive in terms of the above order. The Learned Advocate for the respondent Nos. 1/insurance company is to deposit the balance along with 6 % per cent interest per annum from the date of filing of the claim application 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 passed by the learned Judge, Motor Accident Claims Tribunal, Berhampur, Murshidabad in MAC Case No. 278 of 2012 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 down 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.)