

Cm/S.r.

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 1144 of 2024

Suresh Ch. Bairagya & Ors.

-Vs-

New India Assurance Co. Ltd. & Anr.

For the Appellants/claimants : Mr. Muktakesh Das

For the respondent No.1/insurance co. : Parimal Kumar Pahari

Heard on : 20.09.2024

Judgment on : 20.09.2024

Ananya Bandyopadhyay, J. :-

1. The learned advocates for the appellants/claimants as well as respondents No.1 are present.
2. The instant appeal has been filed against the judgment dated 18th December, 2018 passed by the Learned Judge, Motor Accident Claim Tribunal, 4th Court, Krishnagar, Nadia in MAC Case No.524 of 2007 filed under Section 163A of the Motor Vehicles Act, 1988.
3. The compensation award in the instant claim case to the extent of Rs.3,60,400/- is disputed in view of the Notification dated 22nd May, 2018 issued by the appropriate authority through Gazette

publication and also the observation of this Court in *Urmila Halder v. The New India Assurance Company Ltd*¹.

4. An application under Section 163A of the Motor Vehicles Act was filed by the appellants/claimants concerning an accident, which occurred on 19th November, 2006 at about 12.50 hours incurred by the victim on her way to her residence situated at Krishnanagar being a passenger of the bus bearing registration No. WB/41/9865, which incidentally lost control and collided with another vehicle bearing registration No. WB/37A/5603 approaching from the opposite direction whereby the victim succumbed to her injuries.
5. The Learned Tribunal disposed of the issues framed and on appreciation of evidence pronounced the impugned judgment directing the respondent Nos. 1 to pay a compensation to the tune of Rs. Rs.3,60,400 to the appellants/claimants.
6. The occurrence of the accident, the involvement of the offending vehicle, driving licence, route permit, etc. and other ancillary issues are not in disputed.
7. However, in view of the aforesaid notification and the decisions of the Hon'ble High Court at Calcutta as well as the Hon'ble Supreme Court, the appellants/claimants are entitled to a sum of Rs.5,00,000/-.

The notification dated 22.05.2018, inter alia, stated as follows:

¹ 2019(2)TAC 143

1. "(a) Fatal accidents:
Compensation payable in case of
Death shall be five lakh rupees".

8. The Learned Advocate for the appellants/claimants submitted to have received the compensation amount of Rs. 3,60,400/-.
9. The impugned judgment passed by the aforesaid tribunal is modified to the extent of Rs.1,39,600/- i.e. (Rs.5,00,000-Rs.3,60,400/-) 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.
10. The Learned Advocate for the respondent No.1/Insurance Company is to deposit the balance sum of Rs. 1,39,600/- 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.
11. 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/claimants in equal proportion as mentioned in the judgment dated 18th December, 2018 passed by the Learned Judge, Motor Accident Claim Tribunal, 4th Court, Krishnagar, Nadia in MAC Case No.524 of 2007 under Section 163A of the Motor Vehicles Act, 1988 on proof of proper identification of the appellants/claimants subject to payment of ad valorem Courts fees.

12. The instant appeal is disposed of accordingly.
13. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)