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IN THE HIGH COURT AT CALCUTTA

CIVIL APPELLATE JURISDICTION

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMAT 430 of 2019

Bishaka Biswas & Ors.

-Vs-

National Insurance Co. Ltd. & Anr.

For the Appellants/claimants : Mr. Muktakesh Das
Ms. Sonali Bag

For the respondent/insurance co. : Mr. Debnarayan Ray

Heard on : 13.08.2024

Judgment on : 13.08.2024

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 dated 18th September, 2017 passed by the Additional District & Sessions Judge, FTC-I, Krishnanagar, Motor Accident Claim Case, Nadia In MAC Case No.87 of 2016 under Section 163A of the Motor Vehicles Act, 1988.
3. It has been contended by the Learned Advocate for the appellants/claimants that an application under Section 163A of the Motor Vehicles Act, 1988 was filed by the appellants/claimants praying for compensation of Rs.3,60,000/-

due to the death of the victim in a road traffic accident, which occurred on 22.10.2015 at about 16.40 hrs. with the involvement of mini track bearing registration No.WB-501 1067.

4. The Learned Advocate for the respondent/insurance company did not dispute the occurrence of the accident nor the other ancillary issues including the 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/- of 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. 3,70,500/- (Rs.5,00,000-Rs.1,29,500/-) 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. The Learned Advocate for the

¹ 2019(2)TAC 143

appellants/claimants submitted to have received the compensation of Rs. 1,29,500/-.

7. The Learned Advocate for the respondent/insurance company is to deposit the balance sum of Rs. 3,70,500/- 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 appellant no.1/Bishakha Biswas as mentioned in the award granted by the learned Additional District & Sessions Judge, FTC-I, Krishnanagar, Nadia, Motor Accident Claims Case, No.87 of 2016 on proof of proper identification of the appellant/claimant no.1 subject to payment of *ad valorem* Courts fees.
9. The instant appeal is disposed of accordingly.
10. 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