

29.4. 2024
item No.222
n.b.
ct. no. 551

FMA 1008 of 2021

**Smt. Ratna Modak Roy & Anr.
Vs.
Oriental Insurance Co. Ltd.**

Mr. Subhankar Mondal,
.....for the appellants.
Mr. Sanjay Paul,
Ms. Jaita Ghosh,
.... For the respondent.

The instant appeal has been preferred against the judgment and award dated December 20, 2018 passed by the learned Tribunal, 2nd Court, Raiganj Uttar Dinajpur in M.A.C. case No. 174 of 2017.

The brief fact of the case is that the victim of this case, namely, Khokan Roy on 4.6.2017 at about 5.45 hrs was going to bus stand and reached near bus stand N. S. Road at that time the offending vehicle being no. WB 66G/9130 coming with high speed and negligent manner stuck the victim with great force. As a result, the victim fell down on the road and sustained sever injuries, he was taken to the Raigang Sadar Hospital where doctor declared him brought dead.

The widow and son of the deceased preferred an application before the learned Tribunal for getting compensation under Section 163A of the M. V. Act. The said claim was contested by the Insurance Company by filing written statement.

After hearing the parties and after receiving the evidence, the learned Tribunal has awarded Rs.4,54,000/- towards the compensation and directed the Insurance Company to pay the compensation together with 6% interest per annum from the date of filing of the claim application. The said award was satisfied by the Insurance Company through the learned Tribunal.

Being aggrieved by and dissatisfied with the said award, claimants have preferred the instant appeal for enhancement of the compensation.

The learned advocate Mr. Mondal appearing on behalf of the claimants submits that the award passed by the learned Tribunal is not in conformity with the observation of the Hon'ble Supreme Court in **New India Assurance Co. Ltd. Vs. Urmila Halder**. He submits that the notification of amendment of section 163A of the M. V. Act was promulgated on May 22, 2018. The notification of amendment was not considered by the learned Tribunal. By virtue of the decision of Hon'ble Supreme Court the fixed compensation would be Rs.5,00,000/-

Mr. Paul, learned advocate appearing on behalf of the Insurance Company submits that the learned Tribunal has considered all aspects and passed the impugned award. He further submits that the instant appeal is infructuous.

Heard the learned advocates and perused the judgment passed by the learned Tribunal. In view of the decision of Hon'ble Supreme Court in **Urmila Halder(Supra)** it appears that the Hon'ble Supreme Court has guided that the notification dated May 21, 2018 regarding the amendment of schedule under Section 163A of M. V. Act has to be followed and where the death has been caused in a vehicular accident, the claimants are entitled to get the fixed compensation of Rs.5,0000/-. In following the observation of Hon'ble Supreme Court **Urmila Halder(Supra)** it appears that the award passed by the learned Tribunal requires some enhancement.

Learned Tribunal has awarded of Rs. 4,54,000/-. So, the rest amount of Rs. 46,000/- is required to be awarded in favour of the claimants. Accordingly, the instant FMA 1008 of 2021 is disposed of with a direction to the insurance Company that the Insurance Company shall pay the balance award of compensation amounting to Rs.46,000/- together with 6% interest per annum i.e. from October 30, 2017 till the actual payment.

The Insurance Company is further directed to comply the direction within six weeks from the date of filing of the order through the Ld Registrar General, High Court, Calcutta. Claimants are liberty to receive the same equally from the office of the learned Registrar General, High Court, Calcutta after complying the formalities of identification of certificates.

Accordingly, FMA 1008 of 2021 is disposed of.

Connected applications, if any, are also disposed of.

All parties shall act on the server copy of this order
duly downloaded from the official website of this Court.

(Subhendu Samanta, J.)