

In The High Court At Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present:-

The Hon'ble Justice Ananya Bandyopadhyay

FMA No.1074 of 2022

Rekha Das

vs.

M/s. New India Assurance Co. Ltd. & Anr.

Ms. Sima Ghosh

... for the appellant/claimant

Mr. Sanjay Paul

Ms. Jaita Ghosh

... for the respondent No.1/insurance company.

Heard on: December 5, 2024.

Judgment on: December 5, 2024.

Ananya Bandyopadhyay, J:-

The Learned Advocates representing the appellant/claimant as well as respondent No.1/insurance company are present.

The instant appeal has been preferred by the appellant/claimant against the judgment and award dated 15th February, 2022 passed by the learned Judge, Motor Accident Claims Tribunal, Special Court, Berhampore, Murshidabad in M.A.C. Case No. 110 of 2016.

The appellants/claimants had filed an application under Section 163A of the Motor Vehicle Act, 1988 on account of the death of his son who died in an accident which occurred on 16.11.2015 at about 5.00 p.m. near Tara Hospital under P.S. Samserganj being hit by the offending vehicle bearing registration No. CG04JC8759(Truck), while the victim was a pillion rider of a motor cycle bearing

Registration No. WB 94B-3077 through NH-34. Subsequently, the victim succumbed to his injuries.

The Learned Tribunal after recording the evidence, disposed of the issues framed and awarded a sum of Rs.2,55,800/- along with an interest @ 5% per annum from the date of filing of the claim application till the realization of the awarded amount.

In view of the judgment of the Hon'ble High Court in Urmilla Halder v. The New India Assurance Company Ltd. and the same being affirmed by the Supreme Court on 08/02/2024 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.

“Fatal Accidents:

Compensation payable in case of Death shall be five lakh rupees.”

The appellant/claimant is entitled to receive the balance amount of Rs. 5,00,000/- at the rate of 6% per cent per annum from the date of filing of the claim application till the date of actual realization. The Learned Advocate for the appellant/claimant submitted that the appellant/claimant has withdrawn a sum of Rs. 2,55,800/-.

The Learned Advocate for the respondent No.1/insurance company is to further deposit the balance sum of Rs. 2,44,200/- along with interest as

aforesaid before the office of the Learned Registrar General, High Court, Calcutta within four weeks from the date of passing of this order.

The office of the Registrar General, High Court, Calcutta shall encash the cheques and thereafter disburse the same to the present appellant/claimant in the award passed by the learned Judge, Motor Accident Claims Tribunal, Special Court, Berhampore, Murshidabad in M.A.C. Case No.110 of 2016 on proof of proper identification of the appellant/claimant subject to payment of *ad valorem* Courts fees.

The instant appeal is disposed of accordingly.

The TCR be sent down to the concerned tribunal forthwith.

Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

c.m.

(Ananya Bandyopadhyay, J.)