

cm

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMAT 713 of 2018
CAN 1 of 2024

Minati Swarnakar & Ors.
-Vs-
United India Insurance Co. Ltd. & Anr.

For the Appellants/claimants : Mr. Muktakesh Das

For the respondent No.1/insurance co. : Rajesh Singh

Heard on : 22.08.2024

Judgment on : 22.08.2024

Ananya Bandyopadhyay, J. :-

In Re: CAN 1 of 2024

1. The Learned Advocates for the appellants/claimants as well as the respondents/insurance company are present.
2. The application being CAN 1 of 2024 under Section 5 of the limitation Act has been taken up for hearing. The record reveals that a delay of 194 days.
3. Considering the averments made in the CAN application being 1 of 2024 and in view of the beneficial legislative intent the delay of 194 days in filing the instant appeal is condoned.
4. The application being CAN 1 of 2024 is allowed.

5. The instant appeal has been filed against the judgment dated 30th March, 2017 passed by the Learned Additional Session Judge, FTC-1, Krishnagar/Tribunal Judge, Motor Accident Claim Case, Krishnagar, Nadia in MAC Case No.76 of 2016 under Section 163A of the Motor Vehicles Act, 1988.
6. The compensation award in the instant claim case to the extent of Rs.1,42,834/- 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.
7. The Learned Advocates for both the parties submitted that an application under Section 163A of the Motor Vehicles Act was filed by the appellants/claimants concerning an accident which occurred on 18.11.2015 at about 9.20 hours whereby the victim was hit by the offending vehicle being a track bearing registration no.WB-33A/4282 on the National Highway 34 at Dubulia Saratpally. The victim subsequently succumbed to his injuries.
8. The Learned Tribunal disposed of the issues framed and on appreciation of evidence pronounced the impugned judgment directed the respondent to pay a compensation to the tune of Rs. 1,42,834/- to the appellants/claimants.
9. The occurrence of the accident, the veracity of the driving licence, route permit, etc. and other ancillary issues are not in dispute.

10. 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 claimants are entitled to a sum of Rs.5,00,000/-.

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

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

11. The impugned judgment passed by the aforesaid tribunal is modified to the extent of Rs.3,57,166/- i.e. (Rs.5,00,000-Rs.1,42,834/-) 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.

12. The Learned Advocate for the appellants/claimants submitted to have received the compensation amount of Rs. 1,42,834/-.

13. The Learned Advocate for the respondent/insurance company is to deposit the balance sum of Rs. 3,57,166/- 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.

14. 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

¹ 2019(2)TAC 143

proportion as mentioned in the impugned judgment passed by the Learned Additional Session Judge, FTC-1, Krishnagar/Tribunal Judge, Motor Accident Claim Case, Krishnagar, Nadia in MAC Case No.76 of 2016 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.

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

(Ananya Bandyopadhyay, J.)