

In The High Court At Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present:-

The Hon'ble Justice Ananya Bandyopadhyay

FMA No.412 of 2024
CAN 2 of 2024
National Insurance Co. Ltd.

vs.

Saharan Bibi & Ors.

with

COT 95 of 2024

Saharun Bibi & Anr.

Vs.

The National Insurance Co. Ltd & Anr.

Mr. Sanjay Paul
Ms. Jaita Ghosh

... for the appellant/insurance company.

Mr. Amit Ranjan Roy

... for the respondents/claimants.

Heard on: November 28, 2024.

Judgment on: November 28, 2024.

Ananya Bandyopadhyay, J:-

The Learned advocates representing the appellant/insurance company as well as respondents/claimants are present.

The instant appeal has been preferred by the appellant/insurance company against the Judgment and award dated 22nd December, 2023 passed by the learned Judge, Motor Accident Claims Tribunal, Additional District Judge, Tamluk, Purba Medinipur in M.A.C. Case No.538 of 2015.

The respondents/claimants had filed an application under Section 163A of the Motor Vehicle Act, 1988 claiming a sum of Rs.5,00,000/- on account of death of Sariful Mallik, as compensation owing to an accident.

The Learned Tribunal after recording the evidence, disposed of the issues framed and awarded a sum of Rs.3,54,000/- along with an interest @ 6% 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.

The second schedule 1(a) is as follows: -

“Fatal Accidents:

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

It was further submitted by the Learned Advocate for the appellant/insurance company that the Appellant/Insurance Company had deposited the entire awarded amount with an interest of 6 % per annum from the date of filing of the claim application i.e. 5,05,720/- as per the challan filed by the learned advocate for the Appellant/Insurance company.

The respondents/claimants are 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 respondent No.1/insurance company is to further deposit the balance sum of Rs. 1,46,000/- 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 respondents/claimants in equal proportion as mentioned in the award passed by the Learned Judge, Motor

Accident Claims Tribunal cum Additional District Judge, Tamluk, Purba Medinipur in M.A.C. Case No.538 of 2015 on proof of proper identification of the respondents/claimants subject to payment of *ad valorem* Courts fees.

The interest generated on the sum of money deposited by the appellant/insurance company at the office of the Learned Registrar General, High Court at Calcutta which has already been deposited in the nationalized bank by the office of the Learned Registrar General, High Court at Calcutta is to be apportioned and the sum of interest accrued on the aforesaid amount is to be disbursed in favour of the respondents/claimants.

The instant appeal and COT are disposed of accordingly.

The interim order if any stand vacated.

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.)