

cm

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 964 of 2021

Bahadur Ghosh & Ors.

-Vs-

United India Insurance Co. Ltd. & Ors.

For the Appellants/claimants : Mr. Muktakesh Das

For the respondent/insurance co. : Mr. Rajesh Singh

Heard on : 12.08.2024

Judgment on : 12.08.2024

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 12th September, 2018 passed by the Motor Accident Claims Tribunal – cum – learned Additional District Judge, 2nd Court, Nadia at Krishnagar in MAC Case No.138 of 2014 under Section 163A of the Motor Vehicles Act, 1988.
3. The compensation award in the instant claim case to the extent of Rs.1,96,500/- 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.

4. The claimants had filed an application under Section 163-A of the Motor Vehicles Act, 1988 whereby the aforesaid Tribunal had awarded a sum of Rs.1,96,500/- along with interest at the rate of 7% per annum from the date of filing of the aforesaid claim application till the realization of the entire amount.
5. The occurrence of the accident, the veracity of the driving licence, route permit, etc. and other ancillary issues are not in dispute.
6. 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".

7. The impugned judgment passed by the aforesaid tribunal is modified to the extent of Rs.3,03,500/- i.e. (Rs.5,00,000-Rs.1,96,500/-) along with interest to be paid at the rate of

¹ 2019(2)TAC 143

6 % per annum from the date of filing of the application till the date of its actual realization.

8. The Learned Advocate for the appellants/claimants submitted to have received the compensation amount of Rs. 1,96,500/-.
9. The Learned Advocate for the respondent/insurance company is to deposit the balance sum of Rs. 3,03,500/- 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.
10. 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 proportion as mentioned in the impugned judgment passed by the Motor Accident Claims Tribunal – cum - learned Additional District Judge, 2nd Court, Nadia at Krishnagar in MAC Case No.138 of 2014 on proof of proper identification of the appellants/claimants subject to payment of *ad valorem* Courts fees.
11. The instant appeal is disposed of accordingly.

12. Lower court records be sent to the concerned tribunal forthwith.

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

(Ananya Bandyopadhyay, J.)