IN THE HIGH COURT AT CALUTTA
Civil Appellate Jurisdiction

06.03.2024
SL No. 12 & 13
Court No. 551
Ali

FMA 464 of 2023
With
IA No.: CAN/1/2023, CAN/2/2023

New India Assurance Company Ltd. & Ors.
Vs.
Echmotara Bibi & Ors.
With
COT 99 of 2023
Echmotara Bibi & Ors.
Vs.
National Insurance Co. Ltd. & Ors.

Mr. Rajdeep Bhattacharya,
Mr. Debasish Banerjee,
.... for the appellant.
Mr. Amit Ranjan Roy
...for the respondents/claimants.

The instant appeal has been preferred against the judgment and award dated 20th March, 2023, passed by the learned Judge, Motor Accident Claims Tribunal, ADJ, Fast Track, 3rd Court, Howrah, in MAC Case no. 34 of 2016.

The present respondents have preferred an application under Section 163-A of M.V. Act before the learned tribunal for getting compensation on the ground that on 6th December, 2015 at about 16.45 hours while the victim was proceeding through a by-cycle along with her parents, one bus bearing No. WB-19D/5240, knocked her and she sustained severe bodily injuries and succumbed to his injuries at hospital.

The claimants prayed for compensation; the claim case contested by the Insurance Company by filling written statement.

After hearing the parties the learned tribunal on the basis of observation of the Division Bench of this Court in ***Urmila Halder Vs. New India Assurance Com. Ltd.*** has awarded a sum of Rs. 5,00,000/-along with 5% interest as a compensation towards the claimants and directed the Insurance Company to pay the compensation.

Being aggrieved by and dissatisfied with the said award the Insurance Company has preferred the instant appeal.

Mr. Bhattacharya, learned advocate appearing on behalf of the Insurance Company submits that the order of the Division Bench of this Court has been challenged before the Apex Court, the reason for which, the appeal has been preferred. He frankly submits that the "lie" pending before the Hon'ble Apex Court has been decided on 8th February, 2024. He further submits that the order of the Hon'ble Division Bench has been affirmed by the Hon'ble Apex Court. So, the instant appeal may be disposed of according to the said observation.

Mr. Amit Ranjan Roy, learned advocate appearing on behalf of the claimants submits that the claimants are preferred one COT being No. COT 99 of 2023 only for enhancement of interest upon the awarded sum. Mr. Roy further submits that the learned tribunal has only awarded 5% simple interest over the awarded sum. The claimants are entitled to get interest on higher side.

Heard the learned advocates perused the observation of the Hon'ble Apex Court passed in Special Leave Petition (Civil) No. 6260 of 2019, the Hon'ble Apex Court has held that:-

> ***"9. Having considered the matter, we do not find any reason to interfere with the judgment impugned. With regard to the judgments of this Court relied upon by learned counsel for the appellant, having gone through the same we find that they are distinguishable from the facts of the present case and thus, the ratio of those cases would not apply in the present case.***
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> ***10. The order of the High Court is well discussed and we agree with the view taken. We may, however, add that a beneficial legislation would necessarily entail the benefit to be passed on to the claimant in the absence of any specific bar to the same. In the present case, the liability of the appellant-Insurance Company has not been interfered with. Only the computational mode and the modality have been further clarified, which rightly has been noted by the High Court and***

> ***accordingly, the claim has been enhanced to Rs. 5,00,000/- (Rupees Five Lakhs). As 50% of the compensation amount was stayed by this Court, the same be paid to the respondent in terms of the impugned judgment within eight weeks".***

After considering the observation of Hon'ble Apex Court it appears to me that the appeal preferred by the Insurance Company against the order of the learned tribunal has already been answered by the Hon'ble Apex Court. So, there is no justification to modify the order passed by the learned tribunal. However, in response to the cross appeal filed by the claimants, I think it necessary that the interest should be 6% per annum upon the awarded sum.

Accordingly, the instant appeal along with the COT application is disposed of under the above observation.

It appears that the Insurance Company has already deposited the statutory amount of Rs. 25,000/- and, thereafter, an amount of Rs. 6,01,780/- totaling Rs.6,26,780/-. The office of the learned Registrar General, High Court, Calcutta is directed to disburse the amount along with accrued interest in favour of the claimants equally. After receiving such amount the claimants shall inform the Insurance Company regarding the amount they have received along with their bank particulars; on receiving such information the Insurance Company shall disburse the rest amount, if any, directly to the bank account of the claimants within six weeks after the receipt of the information.

The instant **FMA 464 of 2023** alongwith **COT 99 of 2023** is disposed of.

All connected applications, if any, stand disposed of.

Interim orders, if any, stand vacated.

Parties to act upon the server copy and urgent certified copy of this order be provided on usual terms and conditions.

(Subhendu Samanta, J.)