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IN THE HIGH COURT AT CALCUTTA

CIVIL APPELLATE JURISDICTION

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 332 of 2011

With

CAN 1/2011 (CAN No. 2467 of 2011)

Kalpana Mandal & Ors.

-Vs-

National Insurance Co. Ltd. & Anr.

For the Appellants/claimants : Mr. Krishanu Banik
Mr. Tathagata Banik

For the respondent No.1/insurance co. : Mr. Sanjay Paul
Ms. Jaita Ghosh

Heard on : 09.01.2025

Judgment on : 09.01.2025

Ananya Bandyopadhyay, J. :-

1. The Learned Advocates for the appellants/claimants as well as the respondent No.1/insurance company are present.
2. The instant appeal had been filed against the judgment dated 21st December, 2009 passed by the Learned Judge, Motor Accident Claims Tribunal (District Judge), Malda in MAC Case No.157 of 2008 under Section 163A of the Motor Vehicles Act, 1988.
3. An application under Section 163A had been filed on account of the death of a victim in an accident which occurred at Salbona More on 09.03.2008 at about 15.00 hours. Being pedestrian, the

victim was hit by the offending vehicle being truck bearing Registration No.WGR-1339 which approached from Bamongola at an excessive speed and the driver of the offending vehicle losing his control, hit the victim who suffered severe injuries and was transferred to Gazole Hospital. Thereafter he was referred to Malda Sadar Hospital, where on 09.03.2008 he succumbed to the injuries.

4. The Learned Advocate representing the appellants/claimants submitted the Learned Tribunal had erroneously granted compensation to the extent of Rs. 2,52,500/- towards the compensation to be paid within *“two month from the date of receipt of this order from this end failing which the savings bank interest would be assessed over the said amount”*
5. The Learned Advocate for the respondent No.1/insurance company fairly submitted that the appellants/claimants are entitled to sum of Rs. 5,00,000/- in accordance with the decision of the Hon'ble High Court in Urmila Halder v. The New India Assurance Company Ltd¹. and the same being affirmed by the Supreme Court in Special Leave Petition² 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

¹ 2019(2)TAC 143

² Special Leave Petition(Civil) No. 6260 of 2019

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."*

6. The impugned judgment passed by the aforesaid tribunal is modified to the extent of Rs. 2,47,500/- (Rs.5,00,000-Rs.2,52,500/-) 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.
7. The Learned Advocate for the respondent No.1/insurance company submitted to have deposited a sum of Rs. 2,52,500/- before the Learned Tribunal which had been withdrawn by the Learned Advocate representing the appellants/claimants.
8. The Learned Advocate representing the respondent No.1/insurance company is to deposit the balance sum of Rs. 2,47,500/- along with 6 % per cent interest per annum from the date of filing of the claim application i.e. 19.08.2008 before the office of the Learned Registrar General, High Court Calcutta within four weeks from the date of passing of this order.
9. 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 as mentioned in the award granted by the learned Judge, Motor Accident Claims Tribunal (District Judge), Malda, in M.A.C. Case

No.157 of 2008 on proof of proper identification of the appellants/claimants subject to payment of ad valorem Courts fees.

10.The instant appeal and connected application are disposed of accordingly.

11.The TCR be sent down to the concerned Tribunal forthwith.

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

(Ananya Bandyopadhyay, J.)