

In The High Court At Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present:-

The Hon'ble Justice Ananya Bandyopadhyay

FMA 384 of 2019

Jogomaya Mondal & Anr.

v.

National Insurance Company Limited & Anr.

Mr. Jayanta Kumar Mondal,
Mr. Sayantan Rakshit ... for the appellants/claimants.

Mr. Rajesh Singh ... for the respondent no.1/insurance company.

Heard & Judgement on: March 28, 2025.

Ananya Bandyopadhyay, J:- The learned advocates representing the respective parties are present.

The instant appeal had been preferred against the impugned judgment and award dated 21.03.2018 passed by the learned Judge, Fast Track 1st Court, Motor Accident Claims Tribunal, Alipore, South 24-Parganas in MAC Case No.70 of 2017.

An application under Section 163A of the Motor Vehicles Act had been filed by the appellants/claimants seeking compensation on account of the death of the victim in an accident, which occurred on 24.11.2013 at about 1.30 hours whereby the victim had been a passenger of the offending vehicle being Tata ACE' bearing registration no. WB-19D/3077 which approached at an exceeding speed collided with a roadside tree at Mahamayapur Golabari More and also an electric post resulting in injuries sustained by the victim as well as the driver of the offending vehicle who while transmitted to Muchisa Hospital was dead.

The learned Advoate representing the appellants/claimants submitted that the learned Tribunal applying multiplier method had granted compensation to the tune of Rs.80,000/- which should otherwise be composite

sum of Rs.5,00,000/- in view of the notification dated 22nd May, 2018 in view of the observation of the Hon'ble Apex Court in Urmila Haldar Vs. The New India Assurance Company Ltd.¹.

The learned Advocate representing the respondents/Insurance Company submitted that the Tribunal had granted an interest to the extent of 8% per annum which was excessive and sought for a deduction in the rate of interest though he did not dispute the comprehensive sum of Rs.5,00,000/- to be paid in view of the aforesaid notification as well as the observation of the Hon'ble Supreme Court.

The learned advocates representing both the parties submitted that the learned Tribunal disregarding the notification dated 22nd May, 2018 and the decisions of the Hon'ble Supreme Court in Urmila Haldar Vs. The New India Assurance Company Ltd.² has granted compensation contravening the consolidated sum of Rs.5,00,000/- to be paid.

Since, the occurrence of the accident, involvement of the offending vehicle, the driving license, Insurance certificate etc. are not disputed by the learned advocate representing the respondents/insurance company, this Court restricts itself only to the extent of granting compensation to the tune of Rs.5,00,000/-in view of the notification dated 22nd May, 2018 and the decisions of the Hon'ble Supreme Court in Urmila Haldar Vs. The New India Assurance Company Ltd and also the aforesaid observations of the High Court at Calcutta and the Hon'ble Supreme Court.

*“Fatal Accidents:
Compensation payable in case of Death
shall be five lakh rupees.”*

The appellants/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

¹ 2019(2) TAC 143

the appellants/claimants submitted that the appellants/claimants have withdrawn a sum of Rs. 80,000/- along with interest at the rate of 8% per annum from the date of filing of this case.

The Learned Advocate for the respondent No.1/insurance company is to pay a sum of Rs.4,20,000/- along with interest at the rate of 6% per annum from the date of filing of the application under Section 163A of the Motor Vehicles Act till the date of its actual realization. The differential amount to the extent of excess 2% paid on Rs. 80,000/- from the date of filing of the application till the date of its realization is to be adjusted accordingly.

The office of the Registrar General, High Court, Calcutta shall encash the cheques and thereafter disburse the same to the present appellants/claimants in equal proportion as mentioned in the award passed by the learned Judge, Fast Track 1st Court, Motor Accident Claims Tribunal, Alipore, South 24-Parganas in MAC Case No. 70 of 2017 on proof of proper identification of the appellants/claimants subject to payment of *ad valorem* Courts fees.

The instant appeal is disposed of accordingly.

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.

(Ananya Bandyopadhyay, J.)

Srimanta, A.R.(Ct.).

² 2019(2) TAC 143