

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Ananya Bandyopadhyay

F.M.A. 1416 of 2022

Kalyani Adhikar @Adhikari & Ors.

-Vs-

The New India Assurance Company Ltd. & Anr.

For the Appellants/Claimants : Mr. Jayanta Kumar Mondal
Mr. Sayantan Rakshit

For the Respondents/Insurance Co. : Mr. Rajdeep Bhattacharyya

Heard on & Judgment on : 2nd April, 2025.

Ananya Bandyopadhyay, J.:-

1. Five claimants of the deceased filed an application under Section 163A of the M.V. Act in the Court of Motor Accident Claims Tribunal, ADJ/ FTC-II, Tamluk being MAC Case No.69/2018, claiming an award of Rs.5 lakhs for loss of income, loss of life, for future prospects, love and care of minor children, love and affection, pain and agony, dependency, consortium, funeral expenses and litigation whereby the aforesaid deceased expired due to a road traffic accident on 13.12.2017 at about 00:30 hrs. The offending vehicle bearing Registration No. WB-33C/7392 hit the aforesaid deceased as it was trying to avoid a cow that had suddenly appeared before it. As a result of being hit by the offending vehicle, the deceased was grievously hurt. Consequently, the victim was taken to Garh Moyna BPHC at Moyna, Purba Mednipur and was declared dead by a doctor.

2. The owner of the offending vehicle did not appear before the Court to contest the MAC Case No.69/2018, in the Court of Motor Accident Claims Tribunal, ADJ/ FTC-II, Tamluk.
3. The respondent, New India Assurance Co. Ltd. contested the aforesaid MAC case.
4. The Learned Tribunal as aforesaid disposed of the issues framed considering the oral as well as documentary evidences and awarded a sum of Rs. 4,68,500/- from the insurance company along with 6% interest per annum from the date of filing the case till the date of realization. The insurance company was directed to pay the award of compensation to the Claimants by the way of five Account Payee Cheques, one cheque of 1 lakhs in the name of petitioner 1, two cheque of 1.20 lakhs in the name of petitioner 2 and 3 being minors, and the remaining amount by issuing two cheques of equal amount to petitioner no. 4 and 5 within 2 months.
5. The Learned Advocate representing the appellants/claimants submitted that the award passed by the learned Tribunal is not in accordance with the law laid down by the Hon'ble Apex Court in ***Urmila Halder Vs. New India Assurance Co. Ltd. & Ors.*** He submits that the Hon'ble Apex Court passed in ***New India Assurance Company Ltd. Vs. Urmila Halder*** has guided that the application filed under Section 163A of the M.V. Act prior to the amendment of 163A of M.V. Act i.e. May, 22, 2018, a fixed amount of compensation amounting to Rs. 5,00,000/- has to be awarded in a fatal accident. In this Case, he further argued that the

observation of Hon'ble Apex Court has affirmed the decision of Division Bench of this Court passed in ***Urmila Halder Vs. New India Assurance Co. Ltd. & Ors.*** He submits that the learned Tribunal should have awarded just compensation of Rs. 5,00,000/- and he prayed for necessary modification of the award.

6. The learned Advocate representing the respondent Nos. 1/insurance company did not object to the submission of the Learned Advocate representing the appellants/claimants.
7. Considered the rival submissions of the Learned Advocates representing both the parties.
8. 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 appellant/insurance company, this Court restricts itself only to the extent of granting compensation to the tune of Rs.5,00,000/- notification dated 22nd May, 2018 and the decisions of the Hon'ble Supreme Court in *Urmila Halder Vs. The New India Assurance Company Ltd* and also the aforesaid observations of the High Court at Calcutta and the Hon'ble Supreme Court, the second schedule 1(a) is replicated as follows: -

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

9. The Learned Advocate for the appellants/claimants submitted that the appellant/claimant has withdrawn a sum of Rs. 4,68,500/- along with interest at the rate of 6% per annum from the date of filing of the claim

application till the date of realization from the Learned Tribunal. The appellants/claimants are entitled to a sum of Rs. 31,500/- along with 6% interest per annum to be paid from the date of filing of the claim application till the date of realization.

10. The Learned Advocate for the respondent No.1/insurance company is to deposit the balance sum of Rs. 31,500/- along with interest as aforesaid before the office of the learned Registrar General, High Court Calcutta within six weeks from the date of passing of this order.
11. 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 passed by the learned Judge, Motor Accident Claims Tribunal cum Additional District Judge, FTC-II, Tamluk in M.A.C. Case No. 69 of 2018 on proof of proper identification of the appellants/claimant subject to payment of ad valorem Court's fees.
12. The instant appeal is disposed of accordingly.
13. The pending applications if any stands disposed of.
14. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)