

In The High Court At Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present:-

The Hon'ble Justice Ananya Bandyopadhyay

FMA No. 1065 of 2015

Kalu Molla

-vs.-

Royal Sundaram Alliance Insurance Company Limited & Anr.

For the appellants/claimants : Mr. Krishanu Banik

For the respondents/insurance
Company : Mr. Rajesh Singh

Heard on & Judgment on : 17.06.2025

Ananya Bandyopadhyay, J:-

1. The Learned Advocates representing the appellant/claimant as well as respondents/insurance company are present.
2. The instant appeal had been preferred by the appellant/claimant against the impugned judgment and award dated 15.11.2014 passed by the Learned Judge, Motor Accident Claims Tribunal, 1st Court, Burdwan in M.A.C. Case No. 16 of 2013.
3. An application under Section 163A of the Motor Vehicles Act had been filed by the victim having sustained amputation above the wrist of his right hand sustaining an injury to the extent of 60% as assessed by the Medical Board constituted by Kalna S.D.

Hospital marked as Exhibit 10. The Learned Tribunal Had dismissed the M.A.C. Case No. 16/2013, inter alia, stated that the victim was himself responsible for occurrence of the accident and accordingly refused to grant compensation.

4. The Learned Advocate representing the appellant/claimant submitted in an application under Section 163A of the Motor Vehicles Act the fault on the part of the victim should not have been taken into consideration if at all. Accordingly, the Tribunal had erred in dismissing the aforesaid M.A.C. Case.
5. The Learned Advocate representing the respondents/Insurance Company submitted that the Learned Tribunal taking into account the negligence on the part of the victim to have contributed to the occurrence of the accident had rightly dismissed the aforesaid M.A.C. Case No. 16/2013.
6. Considered the submission of the Learned Advocates representing for both the parties.
7. Since, the occurrence of the accident, involvement of the offending vehicle, driving licence, route permit and insurance policy etc. have not been disputed by the Learned Advocate representing the respondents/insurance company, this Court restricts itself only to the extent of the issue raised by the Learned Advocate representing the appellant/claimant in the

instant appeal exclusively. Section 163A of the Motor Vehicles Act is replicated as follows:-

8. In view of the legislative intent and purport of the statutory provision as stated above the fault of the victim in the occurrence of the accident should not have been taken into account. The victim is entitled to the compensation considering the judgment of the Hon'ble High Court in *Urmila Halder v. The New India Assurance Company Ltd*¹. and the same being affirmed by the Supreme Court in *Special Leave Petition*² and the notification dated 22nd May, 2018, in the second schedule 1(b) in case the disability 60% and the Hon'ble Supreme Court, the second schedule 1(b) is as follows: -

"Accidents resulting in permanent disability:

Compensation payable shall be =
(Rs.5,00,000/- x percentage disability
as per schedule I of the Employee's
compensation Act, 1923 (8 of 1923).

Provided that the minimum
compensation in case of permanent
disability of any kind shall not be less
than fifty thousand rupees."

9. The appellant/claimant is entitled to receive the sum of
Rs.3,00,000/- at the rate of 6% per cent per annum from the

¹ 2019(2)TAC 143

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

date of filing of the claim application till the date of actual realization.

10. The Learned Advocate for the respondents/insurance company is to deposit the sum of Rs. 3,00,000/- along with interest as aforesaid before the office of the Learned Registrar General, High Court, Calcutta within three months from the date of passing of this order.
11. In view of the observation of the Hon'ble Supreme Court in Parminder Singh –Vs.- Honey Goyal & Ors. reported in 2025 1 NSC 361 the appellants/claimants are to provide the details of Bank account held in the name of the appellant/claimant at the office of the Learned Registrar General, High Court at Calcutta for disbursement of the compensation amount.
12. The office of the Registrar General, High Court, Calcutta shall encash the cheques and thereafter disburse the same directly to the Bank accounts of the appellant/claimant as mentioned in the award passed by the Learned Judge, Motor Accident Claims Tribunal, 1st Court, Burdwan in M.A.C. Case No. 16 of 2013 on proof of proper identification of the appellant/claimant subject to payment of ad valorem Courts fees within two months.
13. The instant appeal is disposed of accordingly.

14. 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.)