

Form No.J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 809 of 2024

**Pushpa Devi @ Puspa Devi & Anr.
Versus
United India Insurance Company Limited & Anr.**

For the Appellants : Mr. Jayanta Kumar Mondal.

For the Respondents : Mrs. Sucharita Paul.
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Heard & Judgment on : 27th January, 2025.

Ananya Bandyopadhyay, J:

1. Both the Learned Advocates representing the appellants/claimants and the respondent no. 1/Insurance Company are present.
2. The instant appeal had been filed against the judgment and award dated 14.08.2023 passed by the Learned Judge, Motor Accident Claims Tribunal and Additional District Judge, 2nd Court, Durgapur in M.A.C. Case No. 49/2014.
3. An application under Section 163A of the Motor Vehicles Act had been filed by the appellants/claimants seeking compensation for

the death of a minor girl, aged about 5 years in an accident which occurred on 25.12.2013 at about 11.30 A.M. The victim was hit by the offending vehicle bearing registration no. WB-02Z/2676 (Tavera) approaching at an exceeding speed in NH – 2 near Sreepally Khatal. The victim succumbed to the injuries at S.D. Hospital, Durgapur.

4. The Learned Advocate representing the appellants/claimants submitted that the learned Tribunal erroneously granted a sum of Rs.2,55,000/- as compensation disregarding the comprehensive amount of Rs.5,00,000/- to be paid as compensation.
5. In view of the notification dated 22.05.2018 as well as the observation of the Hon'ble High Court in Urmila Halder –Vs.- The New India Assurance Company Limited and the same being affirmed by the Supreme Court in Special Leave Petition 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 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. Since the occurrence of the accident, Insurance policy, driving license, route permit, involvement of the offending vehicle etc. were not disputed this Court restricts itself only to the extent of modifying the impugned judgment and order in view of the aforesaid notification and observation of the Hon'ble Supreme Court to entitle the claim/compensation amount of Rs.5,00,000/-. The respondents/Insurance Company is directed to pay a sum of Rs.5,00,000/- 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 actual realization of the same. The learned Advocate representing the appellants/claimants submits to have received a sum of Rs.2,55,000/- along with interest at the rate of 7% per annum.
7. The learned Advocate representing the respondents/Insurance Company is to deposit the differential amount along with interest at the rate of 6% per annum from the date of filing of the application as aforesaid till the date of its realization at the office of the learned Registrar General, High Court at Calcutta within eight weeks from the date of passing of this order.
8. 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, Additional

District Judge, 2nd Court, Durgapur, Paschim Bardhaman in M.A.C. Case No. 49 of 2014 on proof of proper identification of the appellants/claimants subject to payment of ad valorem Court's fees.

9. The instant appeal is disposed of accordingly.
10. The pending applications, if any, stands disposed of.
11. 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.