

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

F.M.A 2158 of 2018

CAN 1 of 2018 (Old No. CAN 4343 of 2018)

CAN 2 of 2019 (Old No. CAN 4380 of 2019)

National Insurance Co. Ltd.

-Vs-

Sarapan Bibi & Anr.

For the Appellants : Mr. Rajesh Singh

For the Respondents : Mr. Niranjana Maity

Heard & Judgment on : 07.05.2025

Ananya Bandyopadhyay, J.:-

1. The instant appeal was heard earlier and judgment was reserved. However, the matter was listed under the heading **“For Hearing”** for further clarification.
2. The Learned Advocates representing both the parties are present.
3. The claimant, being the wife of the victim, filed an application under Section 163-A of the Motor Vehicles Act before the Motor Accident Claims Tribunal, claiming compensation for the injuries sustained by her husband, Salim Sk, in a motor accident that occurred on 26.07.2004 at about 12:00 hrs. The accident took place on D.H. Road near Sirakol, under the jurisdiction of Usthi Police Station, while the victim, a rickshaw puller, was proceeding towards Kolkata. The offending vehicle, a TATA Sumo bearing Registration

No. WB-20B/9476, which was being driven in a rash and negligent manner in the same direction, dashed the victim from behind, causing severe injuries.

4. The victim had been admitted at the hospital for treatment from 26.07.2004 to 23.08.2004 and had incurred substantial medical expenses during that period. It was submitted that the driver of the offending vehicle was solely responsible for the accident, and as a result, the victim suffered not only physical injuries but also financial hardship, mental pain, and permanent disability that affected his ability to lead a normal life.
5. The claimant prayed for compensation of Rs. 1,50,000/- along with medical expenses and interest. It was submitted that at the time of the accident, the victim was 39 years old and was earning Rs. 3,000/- per month as a rickshaw puller.
6. The owner of the offending vehicle did not contest the case and the case proceeded ex parte against him.
7. The respondents, The National Insurance Co. Ltd. contested the aforesaid MAC case.
8. The Learned Tribunal as aforesaid disposed of the issues framed considering the oral as well as documentary evidence and awarded a sum of Rs. 2,30,400/- as well as an interest of 8% from the date of filing the case till the realization of the amount.
9. Considered the submission of the Learned Advocates representing for both the parties.

10. 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 appellant/insurance company, this Court restricts itself only to the extent of granting 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 Petition² and the notification dated 22nd May, 2018, in the second schedule 1(b) in case the disability 40% 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.”**

11. The appellants/claimants are entitled to receive the balance amount 2,00,000/- at the rate of 6% per cent per annum from the date of filing of the claim application till the date of actual realization.
12. The learned Advocate representing the appellant/Insurance Company submits to have deposited a sum of Rs.5,42,489 = (Rs. 25,000 + 5,17,489) through two separate cheques as per challan filed by the Learned Advocate representing the appellant/insurance company.
13. The office of the Registrar General, High Court, Calcutta shall encash the cheques and thereafter disburse the same to the present

¹ 2019(2)TAC 143

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

respondents/claimants in equal proportion as mentioned in the award passed by the Learned District & Sessions Judge, 4th Court, Alipore, M.A.C. Tribunal, in M.A.C. Case No. 201 of 2009 on proof of proper identification of the respondents/claimants subject to payment of ad valorem Courts fees within four weeks and refund the differential amount, if any, through a cheque to the learned advocate for the insurance company for the accounts of the insurance company.

14. The interest generated on the sum of money deposited by the appellant/insurance company at the office of the learned Registrar General, High Court at Calcutta which has been further deposited in the nationalized bank by the office of the learned Registrar General, High Court at Calcutta is to be apportioned and the sum of interest accrued on the aforesaid amount is to be disbursed in favour of the appellant/insurance company through a cheque to be deposited at the office of the appellant/insurance company.
15. The instant appeal is disposed of accordingly.
16. The interim order if any stand vacated.
17. The pending applications if any stands disposed of.
18. The TCR be sent down to the concerned tribunal forthwith.
19. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)

