

12.3.2025
Ct. No. 655
Sl.No. 3
samarpita

FMA 650 of 2006

New India Assurance Co. Ltd. & Ors.
Vs.
Sandhya Mahato & Ors.

Mr. Rajesh Singh
... for the Appellants

(Dictated in open Court)

1. This appeal is preferred challenging the impugned judgement and award dated 15th February, 2006 passed by the Motor Accident Claims Tribunal, (Additional District Judge, 3rd Court), Purulia in connection with M.A.C. Case 45 of 2005.

2. Being aggrieved and dissatisfied with the said impugned judgement and award this appeal is preferred at the behest of the appellant/insurance company.

3. By passing the impugned judgement and award the Tribunal awarded compensation amount to the tune of Rs.4,08,000/- (Rupees Four Lakhs Eight Thousand) and allowed the application filed by the claimants under Section 163A of the Motor Vehicle Act, 1988.

4. On the fateful day i.e. on 23.12.2004 three scooter-riders namely, Uttam Mahato, Ganesh Singh Sardar and Bablu Mahato were proceeding towards Purulia side from Bankura side in a scooter bearing no. BR – 17A/8584 along with the left side of Purulia-Bankura metal road and as soon as they reached near at Shantinikatan Hotel in between Lalpur-more and Jabjabigora village on Bankura-Purulia metal road, then the offending vehicle being oil tanker bearing no. NL-01-A/8667 which was coming from Purulia side in rash and negligent manner dashed against the said scooter and as a resultant effect the said three persons sustained serious injuries

on their persons. They were immediately taken to the Sadar Hospital, Purulia where one of the scooter riders namely, Bablu Mahato was declared dead. It is stated by the appellants/claimants that the case vehicle being the oil tanker, which was coming in a rash and negligent manner is responsible for the accident.

5. The instant appeal is preferred on behalf of the appellants/insurance company on the score that the deceased did not possess the driving licence for driving two-wheeler and the scooter which the deceased was driving and at the time of accident he was carrying two more persons as pillion riders violating the terms and conditions of the insurance policy and the Motor Vehicles Act and Rule. The deceased was equally responsible for the said accident. Therefore, due to his contributory negligence and violation of policy conditions, the heirs/legal representatives are not entitled to receive any compensation from the appellant.

6. Mr. Rajesh Singh, learned Counsel appearing on behalf of the appellants/ insurance company assailed that the learned Tribunal at the time of disposing the claim petition, overlooked the said facts as narrated above and came to an erroneous conclusion that these appellants/claimants are entitled to compensation.

7. It appears from the materials on record that one Mr. Rabindra Nath Mahato, learned Counsel appeared on behalf of the respondent nos. 1 and 2 lastly on 3rd July, 2006. Despite the matter is listed, nobody appears on behalf of the claimants today before this Court.

8. It is pertinent to mention here that the claim was made under Section 163A of the Motor Vehicles Act, 1988. The purpose of legislation for introducing Section 163A of the Motor Vehicles Act, 1988 was as a beneficial piece of legislation. Any claim made under the Section 163A of the Motor Vehicles Act, 1988 exempts the claimant from proving the negligence on the part of the offending vehicle. It is a settled principle of law

that even if the claimant is at fault; he can resort to Section 163 A of the Motor Vehicle Act, 1988.

9. It appears that immediately after the accident a police case being Hura P.S. Case No. 57/2004 dated- 23.12.2004 was registered and after completion of investigation charge sheet was submitted by the prosecuting agency which shows about involvement of the case vehicle in the accident and prima facie due to fault of the driver of the case vehicle the accident took place. After going through the oral and documentary evidences it appears that the offending vehicle was being driven by the driver of the vehicle in rash and negligent manner and it dashed the scooter of the deceased and as a result of which son of the claimants died. The post mortem report shows that at the time of death, the age of the victim was 25 years. It is forthcoming from the income certificate of the deceased (Exhibit 7) that the deceased used to earn a sum of Rs.3,000/- per month from his cycle repairing shop. On the contrary no oral or documentary evidences were brought on record by the appellant to refute the claim of the claimants. No evidence was brought into the record before the learned Trial Court by this appellant that the driver of the offending scooter had no valid license.

10. After going through the entire judgement and award I am of the opinion that there is nothing to interfere in it and as such the appeal preferred by the insurance company does not stand under the provision of law.

11. At the time of hearing, Mr. Rajesh Singh, learned Counsel appearing on behalf of the appellants submitted that the statutory amount to the tune of Rs.25,000/- was deposited on 08.6.2006 (vide OD challan no.579) and thereafter the rest amount to the tune of Rs.3,83,000/- (Rupees Three Lakhs and Eighty-Three Thousand) was also deposited before this Court on 27.7.2006 (vide OD Challan No. 1146). As such, the total amount to the tune of Rs. 4,08,000/- (Rupees Four Lakhs Eight Thousand) was deposited but no interest amount as directed by the learned tribunal in the impugned award was deposited before this court which the respondents/claimants are entitled to get.

12. Accordingly, direction is hereby given upon the appellants/insurance company to deposit the interest at the rate of 6% per annum accrued on the compensation amount from the date of filing of the application till realisation before the office of the learned Registrar General, High Court, at Calcutta within three weeks from the date. If the said interest is deposited before the office of the learned Registrar General, High Court, at Calcutta then the learned Registrar General shall disburse the compensation amount along with accrued interest in favour of the appellants/claimants in the manner as proportioned by the tribunal in its impugned judgement and award within one month thereafter upon proper identification and subject to payment of ad valorem court fees on the total awarded compensation amount, if not already paid.

13. As no one is present at the time of disposal of this appeal on behalf of the respondent, the office is directed to serve the administrative notice upon the respondents/claimants with intimation that the present appeal has already been disposed of affirming the judgement and award of the Tribunal. Liberty is given to the claimants for withdrawing the awarded

amount along with accrued interest thereon as deposited by the appellant/insurance company from the office of the learned Registrar General, High Court at Calcutta.

14. Accordingly, the instant appeal is dismissed with the above observation but without any order as to costs.
15. Consequently, the other application filed in connection with this appeal, if any, is also dismissed.
16. Urgent Photostat certified copy of this order, if applied for, be given to the parties on payment of requisite fees.

(Prasenjit Biswas, J.)