

In The High Court At Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present:-

The Hon'ble Justice Ananya Bandyopadhyay

FMA 1142 of 2022

Taser Sk. & Anr.

v.

M/s. Tata AIG General Insurance Co. Ltd. & Anr.

Ms. Sima Ghosh ... for the appellants/claimants.

Mr. Rajesh Singh ... for the respondent no.1/insurance co.

Heard on & Judgment on : March 20, 2025.

Ananya Bandyopadhyay, J:-

1. The Learned Advocates representing the respective parties are present.
2. The instant appeal had been preferred against the impugned judgment and award dated 4th March, 2022 passed by the Learned Motor Accident Claims Tribunal, Judge, Special Court (E.C. Act) Berhampur, Murshidabad in MAC Case No.486 of 2014.
3. An application under Section 163A of the Motor Vehicles Act had been filed by the appellants/claimants on account of the death of the victim on 25th April, 2014 in an accident with the involvement of an offending vehicle being a mini truck bearing registration No.WB-

57B-7221 wherein the victim had been a labour-cum-khalasi, who due to the rash and negligent driving had fallen from the mini truck sustained injury and succumbed to the same in N.R.S. Hospital.

4. The Learned Advocate representing the appellants/claimants submitted that the learned Tribunal on 4th March, 2022 granted a sum of Rs.3,45,200/- along with an interest at the rate of 5% per annum from the date of filing of the claim application till the date of its actual realization and claimed that the composite sum of Rs.5,00,000/- should be awarded as compensation in accordance with the notification dated 22nd May, 2018 as also the decision of the Hon'ble High Court in Urmila Halder v. The New India Assurance Company Ltd and the same being affirmed by the Supreme Court in Special Leave Petition and the notification dated 22nd May, 2018.
5. The Learned Advocate representing the respondent no.1/insurance company objected to the same stating that the accident occurred in the year 2014 and the appellants/claimants were not entitled to the benefit under the aforesaid notification as also the observation of the Hon'ble Supreme Court in the case stated above.
6. Considered the rival submissions of the learned advocates representing both the parties.
7. 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/- as per 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.”*

8. The Learned Advocate for the appellants/claimants submitted that the appellants/claimants have withdrawn a sum of Rs. 3,45,200/-. The appellants/claimants are entitled to receive the balance amount of Rs. 1,54,800/- =(Rs. 3,45,200 – 5,00,000/-)at the rate of 6% per cent per annum from the date of filing of the claim application till the date of actual realization.

9. The Learned Advocate for the respondent No.1/insurance company is to deposit Rs. 1,54,800/- 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.

10. The office of the Registrar General, High Court, Calcutta shall encash the cheques and thereafter disburse the same to the present appellants/claimants in equal proportion as mentioned in the award passed

by the Learned Motor Accident Claims Tribunal, Judge, Special Court (E.C. Act) Berhampur, Murshidabad in MAC Case No.486 of 2014 on proof of proper identification of the appellants/claimants subject to payment of *ad valorem* Courts fees.

11. The instant appeal is disposed of accordingly.
12. The pending applications, if any, stands disposed of.
13. The TCR be sent down to the concerned tribunal forthwith.
14. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)

S.R.