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IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMAT 685 of 2012
With
CAN 1/2016 (CAN No. 4859 of 2016)

Asanur Bewa
-Vs-
The National Insurance Co. Ltd. & Ors.

For the Appellant/claimant : Mr. Biswarup Biswas
Mr. Pradip Kumar Ghosh

For the respondent No.1/insurance co. : Ms. Sucharita Paul

Heard & Judgment on : 17.01. 2025

Ananya Bandyopadhyay, J. :-

In Re: CAN 1/2016 (CAN No. 4859 of 2016)

1. The Learned Advocates for the appellant/claimant as well as the respondent No.1/insurance company are present.
2. The Learned Advocate representing the appellant/claimant had filed an application being CAN 1 of 2016 (Old No. CAN 4859 of 2016) under Section 5 of the Limitation Act has been taken up for hearing. The record reveals a delay of 175 days in filing of the instant appeal.
3. Considering the averments made in Paragraph 5 to 7 of the CAN application being CAN 1 of 2016 (Old No. CAN 4859 of 2016) and in view of the beneficial legislative intent the delay of 175 days in filing the instant appeal is condoned.
4. The application being CAN 1 of 2016 (Old No. CAN 4859 of 2016) is allowed.
5. The appeal is admitted.

6. The instant appeal has been filed against the judgment dated 1st September, 2011 passed by the learned Judge, Motor Accident Claims Tribunal cum Additional District Judge, 1st Court, Krishnagar, Nadia in MAC Case No.94 of 2007 under Section 163A of the Motor Vehicles Act, 1988.
7. Both the Learned Advocates representing the appellant/claimant as well as respondent No.1/insurance company submitted that in disposing of an application under Section 163A of the Motor Vehicles Act the Learned Tribunal had erroneously granted a sum of Rs. 4,41,500/- along with an interest at the rate of 7 % per cent per annum to be paid from the date of filing of the case till its actual realization.
8. 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 respondent No.1/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 Ltd¹. and the same being affirmed by the Supreme Court in Special Leave Petition² 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.”*

9. The impugned judgment passed by the aforesaid Tribunal is modified to the extent of Rs. 58,500/- (Rs.5,00,000-Rs.4,41,500/-)

¹ 2019(2)TAC 143

along with interest to be paid at the rate of 6 % per annum from the date of filing of the application till the date of its actual realization. The Learned Advocate for the appellant/claimant submitted to have received the entire awarded amount.

10. The Learned Advocate for the respondent No.1/insurance company is to deposit the balance sum of Rs. 58,500/- 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 judgment.
11. On receipt of the said amount, the office of the Registrar General, High Court, Calcutta shall encash the said cheque and thereafter disburse the same to the present appellant/claimant as mentioned in the award passed by the learned Judge, Motor Accident Claims Tribunal cum Additional District Judge, 1st Court, Krishnagar, Nadia in M.A.C. Case No.94 of 2007 on proof of proper identification of the appellant/claimant subject to payment of ad valorem Courts fees.
12. The instant appeal is disposed of accordingly.
13. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)

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