

In The High Court At Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present:-

The Hon'ble Justice Ananya Bandyopadhyay

FMAT 734 of 2016

Sajimon Bewa & Ors.

v.

New India Assurance Co. Ltd. & Anr.

Mr. Muktakesh Das ... for the appellants/claimants.

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

Heard & Judgment on: 16th July , 2025.

Ananya Bandyopadhyay, J:-

1. The Learned Advocates representing the respective parties are present in Court.
2. The instant appeal had been preferred against the impugned judgment and award dated 17th June, 2015 passed by the Motor Accident Claim Tribunal, 3rd Court, Krishnanagar, Nadia in MAC Case No.155 of 2008.
3. An application under Section 163A of the Motor Vehicles Act had been filed by the appellants/claimants seeking compensation on account of the death of the victim on 22nd March, 2007 at about 07.00 hours on N.H. 34 at Doyarpara with the involvement of a vehicle being a Truck bearing registration no.WB-59/7719.

4. The Learned Advocate representing the appellants/claimants submitted that the Learned Tribunal had erroneously granted a sum of Rs. 1,89,500/- instead of composite amount of Rs. 5,00,000/- under Section 163A of the Motor Vehicles Act.
5. The Learned Advocate representing the respondent No.1/insurance company submitted that the Learned Tribunal at the relevant point of time was justified in computing the compensation awarded as mentioned above and the insurance company was not liable to pay the compensation award which had been cast upon the owner of the offending vehicle to pay by the learned Tribunal in the impugned judgment.
6. Considered the rival contentions of the respective parties.
7. This Court restricts itself only to the extent of considering the amount of compensation to be awarded in an application under Section 163A of the Motor Vehicles Act at the relevant point of time could not have a notification dated 22nd May, 2018 and 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, the appellants/claimants are entitled to Rs.5,00,000/- of just compensation with regard to second schedule 1(a). Therefore, the appellants/claimants are entitled to the relief of composite sum of Rs. 5,00,000/- to be paid in an application under

Section 163A of the Motor Vehicles Act. More-over, the learned Tribunal, *inter alia*, opined as follows: -

“According to the Indian Motor Tariff Rules, the number of the labourers to be carried by the vehicle in case of loading or unloading should be not exceeding 7. In this Case, according to the F.I.R., the victim along with other 10 labourers were proceeding in the offending vehicle at the time of the incident. So it is proved that the O.P./owner has violated the terms and conditions of policy and accordingly the O.P./Insurance Company will not pay any compensation for death of the victim and the O.P./owner will pay the same.

Moreover, the claimants have not produced any cogent and trustworthy evidence on record to prove that the victim along with 10 persons boarded the said offending vehicle as labourers for the purpose of loading and unloading”.

The learned Tribunal further opined that there had been a violation of the insurance policy issued in favour of the offending vehicle.

8. The appellants/claimants are entitled to a sum of Rs. 5,00,000/- along with 6% interest per annum to be paid from the date of filing of the application under Section 163A of the Motor Vehicles Act till the date of its actual realization. In view of the observation of the **Hon’ble Supreme Court in Parminder Singh Vs. Honey Goyal & Ors.**¹ the appellants/claimants are to provide the details of Bank Accounts held in the name of the appellants/claimants at the office of the learned Registrar General, High Court at Calcutta for disbursal of the compensation amount.

¹ 2025 INSC 361

9. The Learned Advocate for the respondent No.1/insurance company is to deposit the balance sum of Rs. 5,00,000/- along with 6 % per cent interest as aforesaid before the office of the learned Registrar General, High Court Calcutta within 10 weeks from the date of passing of this order and thereafter at liberty to recover the paid amount from the owner of the offending vehicle upon adducing proper evidence.
10. 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 directly to the bank accounts of the present appellants/claimants as mentioned in the award passed by the learned Judge, Motor Accident Claim Tribunal, 3rd Court, Krishnanagar, Nadia in MAC Case No.155 of 2008 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. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)

c.m. Ar. Ct.