

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMAT 641 of 2013
With
CAN 1/2018 (CAN No. 6349 of 2018)

Dipak Biswas & Ors.
-Vs-
The New India Assurance Co. Ltd. & Ors.

For the Appellants/claimants : 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 1/2018 (CAN No. 6349 of 2018)

1. The Learned Advocates for the appellants/claimants as well as the respondent No.1/insurance company are present.
2. The Learned Advocate representing the appellants/claimants had filed an application being CAN 1 of 2018 (Old No. CAN 6349 of 2018) under Section 5 of the Limitation Act had been taken up for hearing. The record reveals a delay of 449 days in filing the instant appeal.
3. Considering the averments made in Paragraph 5 to 7 of the CAN application being CAN 1 of 2018 (Old No. CAN 6349 of 2018) and in view of the beneficial legislative intent the delay of 449 days in filing the instant appeal is condoned.
4. The application being CAN 1 of 2018 (Old No. CAN 6349 of 2018) is allowed.
5. The appeal is admitted.
6. The instant appeal has been filed against the judgment dated 23rd November, 2011 passed by the learned Judge, Motor Accident

Claims Tribunal cum Additional District Judge, 1st Court, Nadia at Krishnagar in MAC Case No.421 of 2007 under Section 163A of the Motor Vehicles Act, 1988.

7. Both the Learned Advocates representing the appellants/claimants as well as respondent No.1/insurance company submitted that an application under Section 163A of the Motor Vehicles Act the Learned Tribunal had erroneously granted a sum of Rs. 3,64,500 along with an interest at the rate of 7 % per cent per annum to be paid from the date of 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. 1,35,500/- (Rs.5,00,000-Rs.3,64,500/-) 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.

¹ 2019(2)TAC 143

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

The Learned Advocate for the appellants/claimants 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. 1,35,500/- along with interest as aforesaid before the office of the Learned Registrar General, High Court Calcutta within eight 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 appellants/claimants in equal proportion as mentioned in the award granted by the learned Judge, Motor Accident Claims Tribunal cum Additional District Judge, 1st Court, Nadia at Krishnagar, in M.A.C. Case No.421 of 2007 on proof of proper identification of the appellants/claimants 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.)