

Form No. J(2)

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 1145 of 2022

Amena Bibi

Versus

The New India Assurance Company Limited & Anr.

For the Appellant : Mr. Jayanta Kumar Mandal,
Mr. Sayantan Rakshit.

For the Respondents : Mr. Sanjay Paul,
Ms. Jaita Ghosh.

Heard & Judgment on : 18th March, 2025.

Ananya Bandyopadhyay, J:

1. Both the Learned Advocates representing the appellant/claimant and the respondents/Insurance Company are present.
2. The instant appeal had been filed against the judgment and award dated 07.04.2022 passed by the Learned Judge, Motor Accident Claims Tribunal-cum-Additional District Judge, 3rd Court, at Berhampore, Murshidabad in M.A.C. Case No. 335 of 2015.
3. An application under Section 163A of the Motor Vehicles Act had been filed by the claimants seeking compensation owing to the death of the victim in an accident which occurred on 25.03.2015 at

about 4:00 p.m. near Binodia Brick Field at village Binodia, Salar, Murshidabad within the jurisdiction of Bharatpur Police Station with the involvement of the offending vehicle being a 'Tata Sumo' bearing registration no. WB-58Q/7069 which recklessly proceeded and hit a roadside tree and thereafter an electric poll. As a result, the said vehicle fell down in a roadside ditch and the victim sustained severe injuries and died on spot.

4. The Learned Advocate representing the appellant/claimant submitted that the Learned Tribunal disregarding the merit of the application under Section 163A of the Motor Vehicles Act assessed the compensation to the tune of Rs. 1,54,500/- along with the interest at the rate of 6% per annum from the date of filing of the claim application, i.e. 20.04.2015 till the date of its realization. The learned advocate representing the appellant/claimant sought for enhancement of the compensation award in terms of the notification dated 22nd May, 2018 and the observation of the Hon'ble Supreme Court in ***Urmila Halder v. The New India Assurance Company Ltd***¹ .
5. The learned Advocate representing the respondents/Insurance Company opposed the submission of the learned Advocate representing the appellant/claimant stating that on the relevant date of accident the notification, as aforesaid, was not in vogue and,

¹ 2019(2)TAC 143

thereafter, the learned Tribunal had been justified in awarding the compensation as per impugned Judgment and Order.

6. 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 respondents/insurance company, this Court restricts itself only to the extent of modifying the amount of compensation in the light of the notification dated 22nd May, 2018 and the observation of the Hon'ble Supreme Court in ***Urmila Halder v. The New India Assurance Company Ltd²***.
7. The appellant/claimant is entitled to receive the amount of Rs. 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.
8. The Learned Advocate for the appellant/claimant submitted that the appellants/claimant has withdrawn a sum of Rs. **1,54,500/-** along with 6% interest per annum from the date of filing of the case, i.e. from 20.04.2015 till the date of its realization. The appellant/claimant is entitled to a further sum of Rs. 3,45,500/- along with 6% interest per annum to be paid from the date of filing of the application i.e. 20.04.2015 till the date of its actual realization.
9. The Learned Advocate for the respondents/insurance company is to deposit the balance sum of Rs. **3,45,500/-** along with 6 % per

cent interest per annum from the date of filing of the claim application 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 learned Registrar General High Court at Calcutta, shall encash the cheques and thereafter disburse the entire awarded amount so deposited to the appellant/claimant as mentioned in the impugned judgment of the Learned Judge, Motor Accident Claims Tribunal-cum-Additional District Judge, 3rd Court, Berhampore, Murshidabad in M.A.C. Case No. 335 of 2015 on proof of proper identification of the appellant/claimant subject to payment of ad valorem Court 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.)

Srimanta, A.R.(Ct.)