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IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 512 of 2025

Royal Sundaram Alliance Insurance Co. Ltd.

-Vs-

Joyshree Mandal & Ors.

For the Appellants/insurance co. : Mr. Rajesh Singh

For the respondents/claimants. : Mr. Saidur Rahaman

Heard on & Judgment on : 31.07.2025

Ananya Bandyopadhyay, J. :-

1. The Learned Advocates for the appellant/insurance company as well as the respondents/claimants are present.
2. The instant appeal had been filed against the judgment and order dated 23rd December, 2013 passed by the learned Additional District & Sessions Judge, Motor Accident Claims Tribunal, 4th Court, Malda in MAC Case No. 91 of 2012.
3. The Learned Advocate for the appellant/insurance company submitted to have filed instant appeal exclusively on the ground that the appellant/insurance company had been cast with the liability to pay the awarded sum and thereafter

recover the same from the owner of the offending vehicle instead should have been absolutely exonerated from discharging such liability since the driver of the offending vehicle did not possess a valid driving licence.

4. The Learned Advocate representing the respondents/claimants submitted that the claimants were only interested in receiving the compensation awarded and did not object to the contentions of the Learned Advocate representing the appellant/insurance company.
5. Considered the rival contentions of the respective parties.
6. Since the occurrence of the accident, the driving license, the Insurance policy, the route permit etc. and other ancillary issues have not been disputed by the Learned Advocate representing the appellant/insurance company, this Court restricts itself only to the extent agitated by the Learned Advocates representing the appellant/insurance company. The Learned Tribunal in the impugned judgment and order *inter alia* observed as follows:

“ It is the argument of the Ld. Adv for the OP Ins (Tracker) that the driver of Tracker had no valid DL on the date of accident and one DL being No. WB65/2428(prof) in the name of Khairul Basar was seized in c.w the EB PS case no. 94/12 dtd 12.02.2012 but the OP Ins has

adduced one OPW the UDC of Malda Collectorate and filed one copy of DL along with other attested xeros copies and authority letter from which it reveals that DL no 65/2428(Prof) stands in the name of Gokul Tarafdar, son of Rabi Tarafdar issued on 06.05.1993 and renewed up to 18.11.2013. There is no document filed on the part of the driver or the owner of the vehicle (Tracker) that he was possessing any valid DL so from this evidence and discussion it can safely be said that the driver of the tracker cum Savari bearing No. WB65A/2348 was not possessing any vali DL on the date of accident and the DL No. WB65/2428 stands in his name seized (as per exhibited seizure list) by police is fake one. Ld. Lawyer for the OP Royal Sundaram referred a ruling cited in AIR 2011 SC 1234(C) wherein it is observed that in view of dispute aboute license of driver of offending vehicle, Ins Co held liable to pay compensation at first instance and later recover it from owner of vehicle. So in this case also the OP Royal Sundaram Allianz Ins Co (insurer of Tracker cum Savari) cannot be held responsible to indemnify the liability of the owner of the Tracker as the driver of the Tracker violated the terms of the Insurance but in view of above ruling of the OP Royal Sundaram Allianz Ins C is liable to pay the compensation amount to the petitioner in the first instance and later recover it from the owner of the vehicle (Tracker)”.

7. Under the above facts and circumstances the appellant/insurance company is to comply with the direction of the impugned judgment and order dated 23rd December, 2023 passed by the learned Additional District & Sessions Judge, Motor Accident Claims Tribunal, 4th Court, Malda in MAC Case No. 91 of 2012 and thereafter recover the said

amount of compensation so paid from the owner of the offending vehicle on strict proof of the same.

8. The Learned Advocate representing the appellant/Insurance Company submitted to have deposited a sum of Rs. 5,68,143/=(Rs. 25,000 + 5,43,143) through two separate cheques as per challan filed by the learned advocate representing the appellant/insurance company.
9. The Learned Advocate representing the respondent Nos. 1 to 4/claimants are entitled to receive the amount of Rs. 4,83,160/- at the rate of 6% per cent per annum from the date of filing of the claim application till the date of actual realization.
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 with accrued interest directly to the bank accounts of the present respondent Nos. 1 and 2/claimants as mentioned by learned Additional District & Sessions Judge, Motor Accident Claims Tribunal, 4th Court, Malda in MAC Case No. 91 of 2012 on proof of proper identification of the respondent No.1 and 2/claimants subject to payment of ad valorem Court fees and refund the

differential amount, if any, through a cheque to the learned advocate for the insurance company for the accounts of the insurance company. The office of the Learned Registrar General, High Court at Calcutta will instruct the claimants to provide details of their bank accounts with relevant documentary proof, prior to such disbursal as aforesaid.

11. The instant appeal is disposed of accordingly.
12. The pending application, if any, stands disposed of.
13. The interim order if any stand vacated.
14. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)