

Srimanta

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 2298 of 2013

Resma Khatoon & Ors.

-Vs-

The New India Assurance Company Limited & Ors.

For the Appellants/claimants : Mr. Amit Ranjan Roy.

For the respondent No.1/insurance co. : Mr. P. K. Pahari.

Heard & Judgment on : 25.04.2025

Ananya Bandyopadhyay, J. :-

1. The Learned Advocates for the appellants/claimants as well as the respondent No.1/insurance company are present.
2. The instant appeal had been filed against the judgment dated 31.01.2013 passed by the learned Additional District Judge, Motor Accident Claims Tribunal, 2nd Court, Asansol, Burdwan in MAC Case No.118 of 2010 under Section 163A of the Motor Vehicles Act, 1988.
3. The learned Advocate representing the appellants/claimants submitted that the learned Tribunal considering the oral and documentary evidence on record assessed the compensation to the extent of Rs.3,69,500/- as a consolidated sum in an application under Section 163A of the Motor Vehicles Act contrary to a sum of Rs.5,00,000/- to have been granted in accordance

with the decision 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.

4. The Learned Advocate for the respondent No.1/insurance company controverted the claim of the learned Advocate representing the appellants/claimants stating at the relevant time the notification as well as the judgment cited above was not in existence and, therefore, the Tribunal was justified in granting the awarded sum.
5. Since, the judgment of the Hon'ble Supreme Court in New India Assurance Company Ltd. –Vs.- Urmila Halder had given retrospective effect to the aforesaid notification, the appellants/claimants is entitled to a sum of Rs.5,00,000/- along with interest at the rate of 6% per annum from the date of filing of the instant application under Section 163A of the Motor Vehicles Act till the date of its realization.
6. The impugned judgment passed by the aforesaid tribunal is modified to the extent of Rs. 1,30,500/- (Rs.5,00,000- Rs.3,69,500/-) 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. The Learned Advocate for the

¹ 2019(2)TAC 143

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

appellants/claimants submitted to have received the compensation of Rs. 3,69,500/-.

7. The Learned Advocate for the respondent No.1/insurance company is to deposit the balance sum of Rs. 1,30,500/- 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 order.
8. 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 as mentioned in the award passed by the learned Judge, Motor Accident Claims Tribunal, 2nd Court, Asansol, Burdwan in MAC Case No. 118 of 2010 on proof of proper identification of the appellants/claimants subject to payment of ad valorem Courts fees.
9. The instant appeal is disposed of accordingly.
10. The TCR be sent down to the concerned Tribunal forthwith.

(Ananya Bandyopadhyay, J.)