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IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 302 of 2025
Padma Rani Singh & Ors.

-Vs-

Bajaj Allianz General Insurance Co. Ltd. & Anr.

For the Appellants/claimants : Mr. Muktakesh Das

For the respondent No.1/insurance co. : Mr. Rajesh Singh

Heard & Judgment on : 13.03. 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 has been filed against the judgment dated 14th March, 2016 passed by the learned Judge, Motor Accident Claims Tribunal cum Additional District Judge, 5th Court, Krishnagar in MAC Case No.529 of 2009 under Section 163A of the Motor Vehicles Act, 1988.
3. An application under Section 163A of the Motor Vehicles Act had been filed by the claimants on account of the death of the victim in an accident which occurred on 20.03.2009 at about 11.00 p.m. with the involvement of the offending vehicle being Mini Truck

bearing registration No. WB.25/4626 which proceeded at an exceeding speed rashly and negligently suffered an accident whereby the victim suffered severe injuries and succumbed to the same.

4. The Learned Advocate representing the appellants/claimants submitted that the Learned Tribunal had erroneously granted a sum of Rs. 3,37,300/- 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 caste upon the owner of the offending vehicle to pay sum by the learned Tribunal in the impugned judgment.
6. 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 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 an 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 in the impugned judgment and order as opined as follows:

“When no document has been produced to show that Deben Singh was a khalashi of that vehicle and even no documentary evidence come forward before the Court to substantiate the said fact it can be hold that victim Deben Singh was merely a occupier of said vehicle and he was a gratuitous passenger of the vehicle. Being a gratuitous passenger of the vehicle insurance company are not liable to pay any compensation for the death of a victim. Rather the liability should saddle with the owner of the vehicle who handed over the vehicle for the purpose of cremation of the dead body. In such a view I think petitioners are entitled to get any compensation from the insurance company but the petitioners are entitled to get compensation from the registered owner of the vehicle”.

7. 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.

8. 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 six weeks from the date of passing of this order and recover the same from the owner of the offending vehicle on adducing proper evidence.
9. 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 cum Additional District Judge, 5th Court, Krishnagar in MAC Case No.529 of 2009 on proof of proper identification of the appellants/claimants subject to payment of ad valorem Courts fees.
10. The instant appeal is disposed of accordingly.
11. The pending applications if any stands disposed of.
12. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)