

Form No. J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 1399 of 2024

**National Insurance Company Limited
Versus
Mamata Ghosh & Ors.**

For the Appellant : Mr. Rajesh Singh.

For the Respondents : Mr. Ali Imam Shah.

Heard & Judgment on : 17th March, 2025.

Ananya Bandyopadhyay, J:

1. Both the Learned Advocates representing the appellant/Insurance Company and the respondents/claimants are present.
2. The instant appeal had been filed against the judgment and award dated 14.06.2024 passed by the Learned Judge, Motor Accident Claims Tribunal 2nd Court, Suri, Birbhum in M.A.C. Case No. 145/2016.
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 who was travelling as 'Khalashi' of a bus bearing registration no. WGH-7197 and the said bus was proceeding

towards Labpur end from Bolpur at a high speed rashly and negligently. On the way near Shyambati Canal, the victim fell down from the bus and was admitted at Kolkata State Hospital where he expired.

4. The Learned Advocate representing the appellant/Insurance Company submitted to have filed the instant appeal as the learned Tribunal directed the appellant/Insurance Company to pay a sum of Rs.5,00,000/- along with interest and to increase the compensation amount and cost of litigation as aforesaid by issuing account payee cheques in equal share in the name of respondents/claimants, as aforesaid, within two months from date.
5. The learned Advocate representing the respondents/claimants submitted that the learned Tribunal was justified in passing the impugned judgment and order.
6. The learned Tribunal had granted the appellant/Insurance Company the right to recover the compensation amount from the driver and not from the owner of the offending vehicle in absence of valid driving licence to have been issued in favour of the driver of the offending vehicle. Such an observation is erroneous to the hilt.
7. 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 appellant/insurance company, this Court restricts itself only to the

extent of modifying the amount of compensation as assessed by the learned Tribunal. Considering the submissions of the learned Advocate representing the respective parties, considering the intent of notification dated 22.05.2018 and the observation of the Hon'ble Supreme Court in *Urmila Halder v. The New India Assurance Company Ltd*¹, the appellant Insurance Company is directed to pay a sum of Rs.5,00,000/- along with the interest at the rate of 6% per annum from the date of filing of the application under Section 163A of the Motor Vehicles Act till the date of its realization and thereafter recover the same from the owner of the offending vehicle on conducting proper evidence of absence of driving license as agitated in the course of hearing before the learned Tribunal.

8. The learned Advocate representing the appellant/Insurance Company submits to have deposited a sum of Rs.25,000/- on 04.09.2024 and Rs. 8,29,961/- on 30.10.2024 through two separate cheques as per challan filed by the learned advocate representing the appellant/insurance company.
9. 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 respondents/claimants in proportion as mentioned in the impugned judgment of the Learned Judge, Motor Accident Claims Tribunal 2nd Court, Suri, Birbhum in M.A.C. Case No. 145/2016 on proof of proper identification of the

¹ 2019(2)TAC 143

respondents/claimants subject to payment of ad valorem Court fees and refund the balance amount through a cheque to the Learned Advocate for the Appellant/Insurance Company for the accounts of the insurance company.

10. The interest generated on the sum of money deposited by the appellant/insurance company at the office of the Learned Registrar General, High Court at Calcutta which has already been deposited in the nationalized bank by the office of the Learned Registrar General, High Court at Calcutta is to be apportioned and the sum of interest accrued on the aforesaid amount is to be disbursed in favour of the appellant/insurance company for the accounts of the insurance company.
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.)