

In The High Court At Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present:-

The Hon'ble Justice Ananya Bandyopadhyay

FMAT 934 of 2014

Uttam Rajoyar & Ors.

v.

Sriram General Insurance Co. Ltd. & Anr.

Mr. Saidur Rahaman ... for the appellants/claimants.

Mr. Rajesh Singh ... for the respondent no.1/insurance company.

Heard on & Judgment on : 11th June, 2025.

Ananya Bandyopadhyay, J:-

1. The Learned Advocates representing the respective parties are present.
2. The instant appeal had been preferred against the impugned judgment and award dated 25th April, 2014 passed by the learned Judge, Motor Accident Claims Tribunal cum ADJ 2nd Court, Krishnagar in MAC Case No.360 of 2010.
3. The Learned Advocate representing the appellants/claimants submitted to have filed the instant appeal exclusively on the ground that in an application under Section 163A of the Motor Vehicles Act the observation of the learned Tribunal with regard to the involvement of the Tata Sumo bearing registration No. WB-

42J/7659 in which the victim had been a passenger was not impleaded as a party.

4. The Learned Advocate representing the respondent No.1/insurance company submitted the learned Tribunal was not justified in its observation since the entire liability had been cast upon the offending Lorry bearing registration No. WB-23A/9694 which was solely responsible to cause an accident and since there had been a collision between the Lorry and truck as aforesaid in the absence of the owner of the offending truck being impleaded as a party before the learned Tribunal to give rise to cause of composite negligence. The learned Tribunal was justified in dismissed the claim application under Section 163A of the Motor Vehicles Act.
5. 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 agitated by the learned Advocates representing the respective parties.

Section 163A of the Motor Vehicles Act states as follows: -

“This Section provides for compensation to the victim/applicant/claimant in the case of death of permanent disablement due to accident arising out of the use of motor vehicle. Such compensation shall be paid by the owner of the motor vehicle or the authorized insurer of the motor vehicle that caused such accident”.

6. In the facts and circumstances of the case the issue of the element of composite negligence being present or absent the claimants are entitled to receive a consolidated sum of Rs. 500000/- in view of the 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, the appellants/claimants are entitled to Rs.5,00,000/- of just compensation with regard to the Second Schedule 1(a) as aforesaid which is replicated as follows: -

“Fatal Accidents:
Compensation payable in case of Death shall be
five lakh rupees.”

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 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 interest as aforesaid before the office of the Learned Registrar General, High Court Calcutta within six weeks from the date of passing of this judgment.
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 in equal

proportion on proof of proper identification of the appellants/claimants subject to payment of ad valorem Courts fees.

10. The instant appeal and connected application are disposed of accordingly.

11. The TCR be sent down to the concerned Tribunal forthwith.

12. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)

c.m. Ar. Ct.