

IN THE HIGH COURT AT CALCUTTA

CIVIL APPELLATE JURISDICTION

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 331 of 2024
National Insurance Company Ltd.

-Vs-

Rakhi Bhakat & Anr.

With

COT 31 of 2019

Rakhi Bhakat

Vs.

National Insurance Company Ltd.& Anr.

For the Appellant/Insurance Co. : Ms. Suchairta Paul

For the respondent No.1/claimant : Mr. Saidur Rahaman

Heard on & Judgment on : 13th June, 2025

Ananya Bandyopadhyay, J. :-

1. The Learned Advocates representing the respective parties are present in Court.
2. The instant appeal had been filed against the judgment dated 6th September, 2017 passed by the learned Judge, Motor Accident Claims Tribunal cum Additional District & Sessions Judge, 5th Court, Malda in MAC Case No. 288 of 2015 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 claimant on account of the death of the victim aged 20 years in an accident which occurred on 4th September,

2015 at 11 hours with the involvement of the offending vehicle being a truck bearing registration No. WBA/1172 which was being driven at an exceeding speed rashly and negligently whereby the driver of the offending truck lost control over the vehicle and collided with the victim who expired on the spot.

4. The Learned Advocates representing the appellant/insurance company submitted that the offending vehicle was not actually involved in the accident which was later on detected to be involved in the accident contrary to the reference of the offending vehicle in the complaint dated 4th October, 2015 which mentioned the number of the offending vehicle to be WB-65/6804. The Learned Tribunal failed to consider the registration number of the offending vehicle as mentioned in the complaint and proceeded to implicate the offending vehicle bearing registration No. WB-25A/1172.
5. The Learned Advocate representing the respondent No.1/claimant submitted to have filed a cross objection being COT 31 of 2019 which *inter alia* stated that in an application under Section 163A of the Motor Vehicles Act the Learned Tribunal had granted compensation of value which was diminutive with regard to the consolidated sum of Rs. 500000/- as per 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.

6. Considered the rival contentions of the Learned Advocates representing both the parties.
7. 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 appellant/insurance company, this Court restricts itself only to the extent agitated by the learned Advocates representing the respective parties.
8. The charge-sheet marked as Ext.4 stated the offending vehicle to have been seized as per the seizure list on 9th October, 2015 bearing registration No. WB-25A/1172. The complainant at the initial point of time not being present at the spot of the accident might have stated a wrong registration number of the offending vehicle. However, the charge-sheet filed in the final form after completion of the investigation had mentioned the seizure of offending vehicle being a truck bearing registration No. WB-25A/1172 which could not be discarded only on the basis of a number of the offending vehicle wrongly mentioned in the complaint. More-over, the offending vehicle was seized within five days of the complaint being lodged and the involvement of the said offending vehicle could not be disbelieved. In view of the

Notification dated 22nd May, 2018 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 appellant/claimant 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.”

9. The learned tribunal pronounced the impugned judgment and order on 6th September, 2017 prior to the notification being issued on 22nd May, 2018 without any scope to consider the comprehensive sum of Rs. 500000/- to be granted in an application under Section 163A of the motor vehicles Act.
10. The respondent Nos. 1 /claimant is entitled to receive the balance amount of Rs. 5,00,000/- interest at the rate of 6% per annum from the date of filing of the claim application under Section 163A of the Motor Vehicles Act i.e. 30.11.2015 till the date of actual realization.
11. It was further submitted by the Learned Advocate for the appellant/insurance company that the Appellant/Insurance Company submits to have deposited a sum of Rs. 2,74,179/- =(Rs. 25,000 + Rs. 2,49,179/-) through two separate cheques as

per challan filed by the Learned Advocate representing the appellant/insurance company. The Learned Advocate representing the appellant/insurance company is to deposit the remaining the balance of amount along with interest as aforesaid before the office of the Learned Registrar General, High Court at Calcutta within three months from the date of passing of this order.

12. The office of the Registrar General, High Court, Calcutta shall encash the cheques and, thereafter, disburse the same directly to the bank accounts of the present respondent Nos. 1 /claimant as mentioned in the award passed by the learned Judge, Motor Accident Claims Tribunal cum Additional District & Sessions Judge, 5th Court, Malda in MAC Case No. 288 of 2015 under Section 163A of the Motor Vehicles Act, 1988 subject to payment of ad valorem Courts fees. The office of the learned Registrar General, High Court at Calcutta will instruct the claimant to provide details of his bank accounts with relevant documentary proof, prior to such disbursal as aforesaid.

13. The interest generated on the sum 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.

14. The instant appeal and cross objection are disposed of accordingly.

15. The interim order if any stand vacated.

16. The Department is to transmit the trial court record to the concerned Tribunal at the cost of Special Messenger to bear by the learned advocate representing the respondent No.1/claimant within fortnight.

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

(Ananya Bandyopadhyay, J.)