

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 296 of 2023

Mita Digar & Ors.

v.

Cholamandalam MS General Insurance Co. Ltd. & Anr.

and

FMA 297 of 2023

With

Cholamandalam MS General Insurance Co. Ltd.

vs.

Mita Digar & Ors.

For the Appellants/Claimants : Sk. Abu Abbasuddin
Ms. Nahid Rahaman

For the Respondents/ : Mr. Debanjan Mukherjee

Heard on : 19.06.2023, 26.06.2024, 22.07.2024

Judgment on : 06.05.2025

Ananya Bandyopadhyay, J.:-

1. The instant appeal was heard earlier and judgment was reserved.
However, the matter was listed under the heading "For Hearing" for further clarification.
2. The Learned Advocates representing the appellants/claimants and respondent No.1/insurance company are present.
3. Two claimants had filed an application under Section 163A of the M.V. Act in the Court of Motor Accident Claims Tribunal, Judge cum Additional, District Judge, 2nd Court, Arambagh, Hooghly being MAC

Case No. 52 of 2017, claiming an award of Rs. 8,00,000/- whereby the aforesaid deceased expired due to a road traffic accident on 10.06.2017 at about 2:00 pm

4. The offending vehicle, a tractor bearing Registration No. WB-67A-6228 approaching at an exceeding speed, rashly and negligently while the victim was riding the tractor as a labour cum khalasi. The victim died on the spot and the post mortem of the dead body was held at Arambagh S.D. Hospital. Subsequently, based on a written complaint, Goghat P.S. Case No. 257/2017 dated 10/6/2017 under Sections 279/304A of the Indian Penal Code was instituted against the driver of the offending tractor as aforesaid.
5. The owner of the offending vehicle did not appear before the Learned Tribunal to contest the aforesaid case which proceeded ex parte against him.
6. The respondent, the Chalamandalam MS General Insurance Company. contested the aforesaid MAC case.
7. The Learned Tribunal as aforesaid disposed of the issues framed considering the oral as well as documentary evidences and awarded a sum of Rs.500000 /- as compensation that Rs. 2,00,000/- along with default interest payable at the 9% per annum till realisation would be paid by the insurance company and O.P. No. 1 was to pay Rs. 3,00,000/- along with default interest payable by 9% per annum till realisation.
8. The Learned Advocate representing the appellants/claimants submitted that the appellants/claimants were entitled to a sum of Rs. 5,00,000/- in

accordance with the provisions under Section 163A of the Motor Vehicles Act and in view of the notification 22nd May, 2018 and the observation of the Hon'ble Supreme Court in *Urmila Halder v. The New India Assurance Company Ltd*¹. the appellants/claimants are entitled to composite sum of Rs.5,00,000/-.

9. The Learned Advocate representing the respondent No.1/insurance company submits that the offending tractor was utilised for different purposes which did not fall under the coverage of insurance policy issued for the offending tractor only to be used for agricultural purpose, therefore, he is granted right to recover the aforesaid compensation amount from the owner of the offending vehicle.
10. 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. 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) which is replicated as follows: -

“Fatal Accidents:

¹ 2019(2)TAC 143

Compensation payable in case of Death shall be five lakh rupees.”

11. The Learned Advocate representing the appellants/claimants are 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 claim application till the date of its realisation. In view of the observation of the Hon’ble Supreme Court in Parminder Singh Vs. Honey Goyal & Ors.² The appellants/claimants are to provide the details of Bank Accounts held in the name of the appellants/claimants at the office of the Learned Registrar General, High Court at Calcutta for disbursal of the compensation amount.

12. The respondent No.1/insurance company is to pay the compensation award and recover the same from the owner of the offending vehicle subject to strict proof of the fact.

12. The Learned Advocate representing the respondent No.1/Insurance Company submits to have deposited a sum of Rs. 4,02,132/=(Rs. 25,000 + 3,77,132) through two separate cheques as per challan filed by the Learned advocate representing the respondent No.1/insurance company. The Learned Advocate for the respondent No.1/insurance company is to deposit the remaining sum along with interest as aforesaid before the office of the Learned Registrar General, High Court Calcutta within 6 months from the date of passing of this order.

13. On receipt of the said amount, the office of the Learned Registrar General, High Court, Calcutta shall encash the said cheque and thereafter

² 2025 INSC 361

disburse the entire awarded amount so deposited with accrued interest directly to the bank accounts of the present appellants/claimants as mentioned in the award passed by the learned Motor Accident Claims Tribunal Judge cum Additional District Judge, 2nd Court, Arambagh, Hooghly in MAC Case No. 52 of 2017/CIS No. 56 of 2017 on proof of proper identification of the appellants/claimants subject to payment of ad valorem Courts fees.

14. The instant appeals are disposed of accordingly.

15. The pending application, if any, stands disposed of.

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

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

(Ananya Bandyopadhyay, J.)