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**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
CIVIL APPELLATE JURISDICTION**

FMA 52 of 2024

Nilima Dutta & anr.

-VS-

Iffco-tokio General Insurance Co. Ltd. & anr.

Mr. Gobinda Saha

Mr. Tamal Kr. Sen

Mr. Milan Ch. Laskar

Ms. Priyanka Dey

... for the appellants-claimants

Mr. Pawan Gurung

Mr. Abhisek Palit

... for the respondent no.1–Insurance Co.

This appeal is preferred against the judgment and award dated 29th August, 2024 passed by learned Judge, Motor Accident Claims Tribunal-cum-Additional District Judge, Fast Track 1st Court, Jalpaiguri in M.A.C. Case No.312 of 2020 granting compensation of Rs.5,00,000/- in favour of the claimants under Section 164 of the Motor Vehicles Act, 1988.

With the consent of the parties, preparation of paper book is dispensed with.

The brief fact of the case is that on 17th August, 2020 at about 5:30 p.m. while the victim, Anita Bose was returning back to her residence from the side of Maynaguri at that time near Tekatuli under Police Station Maynaguri, the offending vehicle bearing

registration No.WB-73F-1754 coming at a high speed from the side of Dhupguri and in rash and negligent manner dashed the victim. As a result of such accident, the victim sustained severe injuries on her person. Immediately, the victim was taken to Maynaguri Hospital and thereafter she was referred to Jalpaiguri Sadar Hospital, where she succumbed to her injuries and died. On account of sudden demise of the victim, the claimants being the sisters of the deceased filed application for grant of compensation to the tune of Rs.9,01,200/- under Section 164 of the Motor Vehicles Act, 1988.

The claim case was keenly contested by respondent no.1-Insurance Company by filing written statement.

Respondent no.2-owner of the offending vehicle although did not contest the claim application and the case was disposed of *ex parte* against her. In the aforesaid backdrop, service of notice of appeal upon the respondent no.2, owner of the offending vehicle, is dispensed with.

The claimants in order to establish their case examined claimant no.1 as PW1 and produced documents, which have been marked as **Exhibits 1 to 14**, respectively.

The respondent no.1-Insurance Company did not adduce any evidence in support of its case.

Upon considering the materials on record and the evidence adduced on behalf of the claimants, the learned Tribunal granted compensation of Rs.5,00,000/- in favour of the claimants under Section 164 of the Motor Vehicles Act, 1988.

Being aggrieved by and dissatisfied with the impugned judgment and award of the learned Tribunal, the claimants have preferred the present appeal.

Mr. Gobinda Saha, learned Advocate appearing for the appellants-claimants submits that the learned Tribunal failed to grant interest on the compensation amount and the interest is granted as a default clause.

Mr. Pawan Gurung, learned Advocate appearing on behalf of the respondent no.1-Insurance Company leaves the matter to the discretion of the Court.

Having heard the learned Advocates for the respective parties, the only issue which has fallen for consideration is whether the claimants are entitled to interest on the compensation amount.

With regard to issue of entitlement of interest on the compensation amount it is found that the learned Tribunal has granted interest as a default clause. Be that as it may, in view of provisions under Section 171 of the Motor Vehicles Act, the claimants are entitled to interest @ 6% per annum from the date of filing of claim application till realization.

It is informed by the learned Advocate for the appellants-claimants that the claimants have already received the amount of compensation of Rs.5,00,000/- granted by the learned Tribunal.

Accordingly, the Insurance Company is directed to deposit the amount of interest @ 6% per annum from the date of filing of the claim application till deposit, by way of a cheque before the learned Registrar, Circuit Bench of Calcutta High Court at Jalpaiguri within a period of six weeks from date.

Upon deposit of the aforesaid interest @ 6% per annum from the date of filing of the claim application till deposit on the amount of compensation, the learned Registrar, Circuit Bench of Calcutta High Court at Jalpaiguri shall disburse the amount in favour of the appellants-claimants in equal share, subject to satisfaction of their identity.

With the aforesaid observations, the appeal being **FMA 52 of 2024** stands allowed. The impugned judgment and award of the learned Tribunal is modified to the above extent. No order as to costs.

All the connected applications, if any, stand disposed of.

Interim orders, if any, stand vacated.

Let the trial court records be sent to the learned Tribunal in accordance with the rules.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of necessary legal formalities.

(**Bivas Pattanayak, J.**)