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

Present:

The Hon'ble Justice Ajay Kumar Gupta

FMA 59 of 2024
Gita Adhikary & Anr.
Versus
National Insurance Company Limited and Anr.

For the Appellants	:	Ms. Srija Bhowmik, Adv. Mr. Milan Chandra Laskar, Adv.
For the Respondents	:	Ms. Supriya Singh, Adv.
Heard on	:	29.06.2026
Judgment on	:	02.07.2026
Uploaded on	:	02.07.2026

Ajay Kumar Gupta, J.:-

1. This instant First Miscellaneous Appeal has been filed by the appellants/claimants being aggrieved by and dissatisfied with the Judgment and Award dated 30th day of June, 2018 passed by the Learned Judge, Motor Accident Claims Tribunal, Fast Track 1st

Court, Jalpaiguri in M.A.C. Case No. 374 of 2016, whereby the Learned Tribunal Judge directed to the National Insurance Company to pay compensation of Rs. 3,60,000/- to the appellants/claimants by two equal A/C payee cheques of Rs. 1,80,000/- each to the appellants/claimants within two months from the date of this order, failing which it will have to pay an interest @ 9% p.a. over the awarded amount till its actual realization/payment by taking into consideration the notional monthly income of the deceased @ Rs. 3,000/- per month at the time of accident.

2. The claimants have preferred this appeal only on two-fold grounds. Firstly, the Learned Tribunal Judge has not considered the Notification dated 22.05.2018 for compensation payable in case of death/injury claimed under Section 163A of the Motor Vehicles Act and failed to allowed a fixed compensation of Rs. 5, 00,000/- in place of Rs. 3, 60,000/- and secondly no interest paid on the awarded amount from the date of filing application till its realization.

3. Learned counsel appearing on behalf of the appellants/claimants submitted that the accident was occurred on 06.10.2016 and the Notification was issued by amending the Section 163A which was came into force on 22.05.2018. But the said Notification was given effect retrospectively by the Division Bench of the Hon'ble High Court, Calcutta and held that the Notification will be effected retrospectively and not prospectively. She has placed reliance of the decision in the case of ***Urmila Halder vs. New India Assurance Co. Ltd. & Ors. (FMA 446 of 2010)***[1] wherein the Division Bench of this Court has held that total sum of Rs. 5,00,000/- in a fatal accident falls under Section 163A of the Motor Vehicles Act, 1988 should be paid. It has retrospective effect though the amendment has come into effect on and from 22nd May, 2018, as such, application pending prior to the amendment shall have retrospective effect.

4. Subsequently, the National Insurance Company travelled upto the Hon'ble Supreme Court. The Apex court in the case of ***The New India Assurance Co. Ltd. Vs. Urmila Halder***[2], has affirmed the view taken by this Court and further held as under: -

> *"The order of the High Court is well discussed and we agree with the view taken. We may, however, add that a beneficial legislation would necessarily entail the benefit to be passed on the claimant in the absence of any specific bar to the same. In the present case, the liability of the appellant-Insurance company has not been interfered with. Only the computational mode and the modality have been further clarified, which rightly*

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[1] **2018 SCC Online Cal 11751, 2019 (2) TAC 143 (Cal)**
[2] **SPECIAL LEAVE PETITION (CIVIL) NO. 6260 OF 2019.**

has been noted by the High Court and accordingly, the claim has been enhanced to Rs.5,00,000/= (Rupees Five lakhs).”

5. On the other hand, learned counsel appearing on behalf of the National Insurance Company submitted that the Notification was given effect on and from 22.05.2018. So, these judgments are not applicable in the present case. The Learned Tribunal Judge has rightly passed the award. So, there is no need for interference.

6. Heard the learned counsels for the respective parties and on perusal of the record, it appears that on 06.10.2016 at about 10:00 Hrs. while the deceased was returning back to house by riding a bi-cycle from Sikarpur side, at that point of time near B.D.O. Office, one Truck bearing No. JH-04-H-1143 coming from backside and suddenly dashed against him. As a result, he suffered serious injuries in his person and succumbed, while removing him to the hospital on the way. Doctor declared him dead.

7. Claimants being the legal heirs and representative have filed an application for compensation under Section 163(A) of Motor Vehicles Act. It is an undisputed fact about the involvement of the vehicle and the death of the victim, caused due to accident as claimed and proved. Only consideration for this court is what would be the actual compensation to be paid to the claimants. As per the

Notification and judgments relied by the parties, this Court finds that the Learned Tribunal Judge failed to consider the Notification dated 22.05.2018 and passed the impugned award on 30.06.2018 by taking into consideration the notional monthly income of the deceased @ Rs. 3,000/- per month at the time of accident and without looking into the judgments of the Hon'ble High Court and the Hon'ble Supreme Court as aforesaid.

8. This instant appeal is squarely covered by the judgment of the Hon'ble Supreme Court passed in ***The New India Assurance Co. Ltd. Versus Urmila Halder*** *in* ***Special Leave Petition (Civil) No. 6260 of 2019***. Hence, the claimants are entitled to get a fixed compensation of Rs. 5,00,000/- on account of death caused by Motor Vehicles Accident instead of Rs. 3,60,000/-.

9. So far as the interest is concerned, it would be appropriate to refer the Judgment passed by this Hon'ble High Court passed in the case of ***Rekha Dutta & Ors. vs. Ram Avatar Lohia & Anr.***[3], wherein this Hon'ble High Court held that:-

> *"In our opinion, the very approach of the Tribunal was based on the wrong notion that interest is payable as a penal measure. In this connection, it will not be out of place to refer to the following observations of the Supreme Court about the object of grant of interest in the case of* ***Alok***

[3] **2009 (3) TAC (Cal) 783**

Shanker Pandey vs. Union of India and Ors reported in AIR 2007 SC 1198*:*

"It may be mentioned that there is misconception about interest. Interest is not a penalty or punishment at all, but it is the normal accretion on capital. For example, if A had to pay B a certain amount, say 10 years ago, but he offers that amount to him today, then he has pocketed the interest on the principal amount. Had A paid that amount to B 10 years ago, B would have invested that amount somewhere and earned interest thereon, but instead of that A has kept that amount with himself and earned interest on it for this period. Hence equity demands that A should not only pay back the principal amount but also the interest thereon to B."

(Emphasis supplied)

10. Consequently, the claimants are also entitled to get interest on the awarded compensation amount from the date of filing of the claim application till realization.

11. Accordingly, the National Insurance Company is directed to pay a lump sum compensation amount of Rs. 5, 00,000/- along with interest @ 7 % per annum from the date of filing of the application i.e. on 18.11.2016 till realization of the said amount, if not already paid, by way of cheque by depositing the same before the Office of Learned

Registrar, Circuit Bench of Calcutta High Court at Jalpaiguri within a period of 2 months from this date.

12. Learned Registrar, Circuit Bench of Calcutta High Court at Jalpaiguri, upon deposit of the compensation amount together with interest on the awarded compensation amount, pay the same in the mode and manner stipulated in the judgement and award of the Tribunal. The compensation shall release in favour of the appellants/claimants upon proper identification and subject to verification of the payment of ad valorem Court fees on the total compensation amount, if not already paid.

13. It is further directed to the National Insurance Company that while paying the compensation amount, shall also to take into consideration of Clause 2 of the Notification dated 22.05.2018 wherein it is mentioned that on and from 01.01.2019 the amount of compensation shall stand increased by 5% annually.

14. With the above observations, the instant appeal being **FMA 59 of 2024** is, thus, **allowed** after modifying the impugned judgment and award dated 30th day of June, 2018 to the extent as aforesaid without order as to costs.

15. Connected applications, if any, are also, thus, disposed of.

16. Let a copy of this Judgment along with Trial Court Records, if any, be sent back to the learned Court below forthwith for information.

17. All parties shall act on the server copy of this judgment uploaded on the official *website* of High Court at Calcutta.

18. Urgent Photostat certified copy of this Judgment, if applied for, be given to the parties upon compliance of all legal and necessary formalities.

(Ajay Kumar Gupta, J.)

(P.A.)