
(2025) 03 CAL CK 1017
In the Calcutta High Court, Appellate Side
Case No : FMA No. 375 Of 2021

Sohagi Halder & Haldar

APPELLANT

Vs

Tata AIG General Insurance Company Ltd. & Anr

RESPONDENT

Date of Decision : 13-03-2025

Acts Referred:

Motor Vehicles Act, 1988 — Section 163A, 166

Citation : (2025) 03 CAL CK 1017

Hon'ble Judges : Ananya Bandyopadhyay, J

Bench : Single Bench

Advocate : Saidur Rahaman, Rajesh Singh

Final Decision : Disposed Of

Judgement

Ananya Bandyopadhyay, J

1. The Learned Advocates representing the respective parties are present.
2. The instant appeal had been filed against the judgment and award dated 5th October, 2020 passed by the learned Judge, Motor Accident Claims Tribunal cum Additional District Judge, Fast Track 2nd Court, Malda in M.A.C. Case No. 227 of 2017.
3. An application under Section 166 of the Motor Vehicles Act had been filed by the claimant on account of the death of the victim in an accident which occurred on 9th December, 2015 at about 3.00 hours with involvement of the offending vehicle being a Maruti Van bearing registration no. WB-66N/6834 which approached towards Malda from Pakua when the driver of the offending vehicle being lost control over the vehicle and dashed against the tree resulting in his death on the side.
4. Learned Advocate representing the appellant/claimant submitted that the learned Tribunal disregarding 'no fault liability' stipulated statutorily under Section 163A of the Motor Vehicles Act had dismissed the claim application due

to the fault of the driver being the victim who had been responsible in causing the accident.

5. The learned Advocate representing the respondent No.1/Insurance Company submitted that the insurance company was given liberty to recover the compensation paid in the statutorily mandated provision of Section 149(ii) of the Motor Vehicles Act and recover the same from the owner of the vehicle.

6. Since the occurrence of the accident, the driving license, the Insurance policy, the route permit etc. and other ancillary issues have not been disputed by the learned advocate representing the respondent No.1/insurance company, this Court restricts itself only to the aspect of granting compensation to the extent of Rs. 5,000,00/- comprehensively in accordance with the notification dated 22nd May, 2018 and the observation of the Hon'ble Supreme Court in *Urmila Halder v. The New India Assurance Company Ltd* 2019(2)TAC 143. and the same being affirmed by the Supreme Court in Special Leave Petition Special Leave Petition(Civil) No. 6260 of 201 and the notification dated 22nd May, 2018, the appellant/claimant are entitled to Rs.5,00,000/-of just compensation with regard to second schedule 1(a) and notification dated 22nd May, 2018 and also the aforesaid observations of the High Court at Calcutta and the Hon'ble Supreme Court.

The second schedule 1(a) is as follows: -

"Fatal Accidents:

Compensation payable in case of

Death shall be five lakh rupees."

7. The appellant/claimant is 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 claim application under Section 163A of the Motor Vehicles Act 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 order and recover the same from the owner of the offending vehicle on adducing evidence that offending vehicle was issued for a particular purpose being private car to have been utilized for commercial bus of hire and rent basis.

9. The office of the Registrar General, High Court, Calcutta shall encash the said cheque and thereafter disburse the same to the present appellant/claimant in M.A.C. Case No. 227 of 2017 on proof of proper identification of the appellant/claimant subject to payment of ad valorem Court's fees.

10. The instant appeal is disposed of accordingly.

11. The pending applications if any stands disposed of.

12. The TCR be sent down to the concerned tribunal forthwith.

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