BEFORE THE MOTOR ACCIDENT CLAIM TRIBUNAL
ADDITIONAL DISTRICT & SESSIONS JUDGE, FAST TRACK II COURT,
DIAMOND HARBOUR,
SOUTH 24 PARAGANAS

Present: Sri Arindam Chattopadhyay
J. O. Code : WB00859

M.A.C.C. No. 587 of 2022
(U/S 166 of the Motor Vehicles Act 1988)

CIS NO. 587 OF 2022

1. Md. Saifuddin Molla
2. Firoza Bibi Mondal
3. Anisha Khatun
(Claimant No.3 being minor represented by claimant No2---Claimants

- VS -

1. Mritunjay Gazi--O.P. No.1 …..........(Owner of the Vehicle)

2. Reliance General Insurance Co. Ltd. ----O.P. No.2 (Insurance Co.)

Advocate for claimant : Mr. Aloke Kumar Roy

Advocate for O.P. No.2 / Insurance Co. : Mr. Mithun Sarkar

Dated, Diamond Harbour, the 25th day of August, 2023

AWARD

The factual matrix and pleadings

This proceeding u/s. 166 of The Motor Vehicles Act , 1988 (hereinafter referred to as "the M.V. Act") has been filed by 1. **Md. Saifuddin Molla**, father of Lt. Firdaus Molla, 2. **Firoza Bibi Mondal,** mother of Lt. Firdaus Molla, & **3. Anisha Khatun** minor daughter of Lt. Firdaus Molla, all of them residing at village Panchsata, Kapatkhand, Sarisha, Police Station Diamond Harbour, Dist. South 24 Pgs. Pin-743368 praying for compensation of Rs.28,00,000/-, for themselves on account of death of Firdaus Molla due to a motor accident which took place on 17.10.22 at about 23.40 hours near Sroter Pole under Diamond Harbour Police Station.

The owner of the said vehicle bearing Registration No. WB-97-3801 has been named as Mritunjay Gazi and made opposite Party No.1 whereas Reliance General Insurance Co. Ltd. has been made the Opposite Party No.2 in this proceeding. According to the claimants, on the date and time of the said alleged accident the victim namely Firdaus Molla was traveling in a motor cycle following the left side of Diamond Harbour Road and proceeding towards Sarisha. When it reached in between Dostipur and Sroter Pole under Flata P.S., the offending vehicle, bearing registration No. WB-97-3801, came at a tremendous speed from the opposite side, in a rash and negligent manner and dashed the said motor cycle in which the victim was traveling. As a result, the victim Firdaus Molla fell down on the road and received serious bleeding injuries on his person. He was taken to Diamond Harbour District Hospital by the local people where the doctor declared the victim as dead. According to the claimants the said accident took place due to rash and negligent driving of the driver of the offending vehicle. Before the accident the victim used to work as a labour at Kamala Enterprise and used to earn more than Rs.12,000/- per month. The claimants prayed for grant of compensation on account of death of Firdaus Molla on and from the date of filing of this case.

The O.P. No.1 appeared in this case on 03.06.23 by filing vakalatnama. However, subsequently he did not contest the proceeding and as such the case was heard exparte against O.P. No.1. The opposite party No.2 also appeared in this case on 03.06.23 by filing its written statement on the same day and contested this case.

The O.P. No.2 in its written statement claimed that the claim application is false and unjustified one and the same has been filed only to earn illegal money and thus not maintainable under the law. The O.P. No. 2 denied the involvement of the offending vehicle in the alleged accident. The said O.P. No.2 stated that the driver of the offending vehicle did not have any valid driving licence, route permit and accordingly, O.P. No.1 contravened the provisions of the Motor Vehicles Act and committed the breach of terms and conditions of the policy. Accordingly, O.P. No. 2 stated that it is not entitled to pay the compensation. The said O.P. also claimed that the amount of compensation prayed for by the claimants is excessive. Thus, the O.P. No.2 has prayed for rejection of the claim application.

On the basis of the rival contentions of both the parties the following issues were framed by this Tribunal at the time of passing of this Judgment for adjudication of the claim.

I S S U E S

1. Whether the instant claim application is maintainable in its present form and law?
2. Whether the claimants have any cause of action to bring this case against Opposite parties ?
3. Whether the victim Firdaus Molla died in a road traffic accident involving the vehicle bearing Registration No. WB-97-3801 as claimed?
4. Whether the alleged accident occurred due to rash and negligent driving by the driver of the offending vehicle ?
5. Whether the offending vehicle duly covered under any insurance policy issued by the Opposite Party No.2 at the relevant time?
6. Whether the claimants are entitled to get an award of compensation as claimed, if so, to what extent?

WITNESSES ADDUCED

P.W. 1 – Firoza Bibi (claimant No.2)

P.W.2 – Amir Hossain Molla (Eye witness)

P.W. 3 – Jayadratha Halder (Proprietor of Kamala Enterprise)

No witness deposed on behalf of either of the opposite parties.

DOCUMENTS EXHIBITED

NATURE OF DOCUMENT	EXHIBIT NUMBER
1. Certified copy of F.I.R. 2. Certified copy of written complaint	Ext.1 Ext.2

3. Certified copy of charge sheet	Ext.3
4. Certified copy of two seizure lists, both dated 06.11.22	Ext.4 collectively
5. Certified to be true copy of registration certificate	Ext.5
6. Certified to be true copy of insurance certificate	Ext.6
7. Certified to be true copy of tax receipt	Ext.7
8. Certified to be true copy of route permit	Ext.8
9. Certified to be true copy of fitness certificate	Ext.9,
10.Certified to be true copy of driving licence	Ext.10
11. Certified to be true copy post mortem report of the victim	Ext.11
12. Notary attested photo copy of death certificate of victim	Ext.12
13. Notary attested photo copy of Aadhar Card of P.W.1	Ext.13
14. Notary attested photo copy of Aadhar Card of the victim	Ext.14
15.Notary attested photo copy of birth certificate of Anisha Khatun	Ext.15
16.Notary attested photo copy of death certificate of Tanjila Khatun	Ext.16
17. Salary Certificate	Ext.17
17. Copy of Trade Lience, GST Certificate & Income Tax Return of Kamala Enterprise	Ext.18, 19 & 20 series

SUBMISSIONS MADE BY THE LD. ADVOCATES OF THE PARTIES

The Ld. Advocate appearing on behalf of the claimants submitted before this Tribunal that from the oral evidences of the witnesses as well as the documents, which have been marked as exhibits, it has been duly proved that the accident occurred due to rash and negligent driving by the driver of the offending vehicle. As a result of such accident the victim sustained serious injuries on his person and subsequently died at the hospital. Thus, there was consequent loss of income and the same should be compensated by paying sufficient compensation amount by the opposite parties. He further submitted that it has been also proved by the claimants that, at the relevant point of time, the offending vehicle was covered under a valid insurance policy issued by the opposite party No.2 and thus the claim made by the petitioner is valid and legal. He also submitted that the claimants have been able to prove the profession and income of the deceased at the time of the accident. Accordingly, he prayed that this Tribunal may pass an order thereby directing the opposite parties to adequately compensate the loss suffered by the petitioners due to the death of the victim in the said accident.

The ld. Advocate appearing on behalf of opposite party No.2/Insurance Co. submitted that the petitioners have failed to prove their claim and accordingly the petition is liable to be rejected. His argument was based on the following points :-

a) That the petitioners have failed to prove that the accident or the death of the victim has been caused by the insured vehicle. Therefore, the claim case is to be dismissed.

b) That the petitioners failed to prove the income of the victim.

c) That the amount of compensation claimed is excessive and that as the insurance co. has not wasted any time during the trial of this case, the company should not be directed to pay any interest on the compensation amount.

DECISION WITH REASONS

Before entering into appreciation of evidence and determining the fate of this claim, this Tribunal would like to reiterate the guiding principles of proof and evidence applicable to a case of like nature. In a case of civil nature the cardinal principle of proof is based on the theory of “preponderance of probabilities”. However, the claim of compensation before the Motor Accident Claim Tribunal under section 165 of the M.V. Act, is neither a suit nor an adversarial lis in the traditional sense and therefore the rules of Evidence Act is not strictly applicable in these cases **[United India Insurance Co. - Vs- Shila Dutta (2011) 10 SCC 509].** The said Act being a beneficial legislation, the rule of natural justice , equity and good conscience will be applicable while dealing with the claim of compensation by the Tribunal.

Keeping the above principle in mind let us now delve in the materials on record to discuss all the issues and come to a just finding.

<u>Issue Nos.1 and 2</u>

Both the issues are taken up together for the sake of convenience and brevity.

This is a case u/s.166 of the M.V. Act. Thus, before making further discussion, this Tribunal would like to reproduce the said section for a clear understanding of the law.

S.166 Application for compensation. **-** *(1) An application for compensation arising out of an accident of the nature specified in sub-section (1) of section 165 may be made-*

(a) by the person who has sustained the injury ; or

(b) by the owner of the property; or

(c) where death has resulted from the accident, by all or any the legal representatives of the deceased, or

(d) by any agent duly authorised by the person injured or all or any of the legal representatives of the deceased, as the case may be :

Provided that where all the legal representatives of the deceased have not joined in any such application for compensation, the application shall be made on behalf of or for the benefit of all the legal representatives of the deceased and the legal representatives who have not so joined, shall be impleaded as respondents to the application.

[(2) Every application under sub-section (1) shall be made, at the option of the claimant, either to the Claims Tribunal having jurisdiction over the area in which the accident occurred, or to the Claims Tribunal within the local limits of whose jurisdiction the claimant resides or carries on business or within the local limits of whose jurisdiction the claimant resides, and shall be in such form and contain such particulars as may be prescribed:

Provided that where no claim for compensation under section 140 is made in such application, the application shall contain a separate statement to that effect immediately before the signature of th *e applicant.]*

[(3)……………….]

[(4) The Claims Tribunal shall treat any report of accidents forwarded to it under sub-section (6) of section 158 as an application for compensation under this Act.]

If we go through the aforesaid section of law, it is can be seen that the same has categorically specified as to who are the persons eligible to make an application under the said section and also before which Claim Tribunal the same can be made. It is clear on a plain reading of the section that where death has resulted from the accident, the claim can be made by all or any the legal representatives/dependents of the deceased, or by any agent duly authorised by the person injured or all or any of the legal representatives of the deceased, as the case may be :

Provided that where all the legal representatives/dependents of the deceased have not joined in any such application for compensation, the application shall be made on behalf of or for the benefit of all the legal representatives of the deceased and the legal representatives who have not so joined, shall be impleaded as respondents to the application.

In this case the application has been made by one 1. Md. Saifuddin Molla, 2. Firoza Bibi Mondal & 3. Anisha Khatun who have claimed to be the only legal heirs of the deceased. Thus, the law grants them the option for making an application under section 166 of the M.V. Act and they have rightly chosen the said option. In the written statement filed by the opposite party No.2, the identity of the petitioners have not been challenged and therefore, this Tribunal has no business to doubt the identity of the petitioners of this case.

It also appears that the application has been properly made in the prescribed form as specified by the West Bengal Motor Vehicles Rules containing all particulars. The accident took place under Falta Police Station and accordingly this Tribunal has the jurisdiction to adjudicate the claim.

The opposite party No.2 in its written statement has only made evasive denial regrading the occurrence of the alleged accident without making out any specific case in support of its such denial. On the other hand if we go through the FIR (Exhibit 1), written complaint (Exhibit 2) as well as the charge sheet (Exhibit 3) it can be seen that an accident did occur on 17.10.2022 at about 23-40 hours near in between Dostipur and Sroter Pole under Falta P.S. involving the offending vehicle, as a result of which the victim sustained injury on his body and subsequently died at the hospital. Exhibit No.3 further shows that after investigation, the police authority was of the opinion that the said accident was a result of rash and negligent driving of the driver of the offending vehicle namely Firdaus Molla was the victim of the said accident.

Accordingly, this Tribunal has no hesitation to come to the finding that this case under section 166 of the M.V. Act is maintainable and the claimants had valid and legal cause of action for filing the same.

Accordingly both the issues are decided in affirmative and in favour of the petitioners/claimants.

<u>Issue Nos.3 and 4</u>

These two issues are taken up together for sake of convenience and brevity.

P.W.1, stated in her examination in chief that she is deposing for herself and also on behalf of the other petitioners. The said witness in her examination in chief supported the case of the petitioners/claimants. In her cross examination she stated that except Firdaus Molla, she has another son namely Firoj Molla who is a tailor. At present her son Firoj is looking after them. Her said grand daughter stay with them. She further stated that her said son Firdaus Molla never underwent any training as a labour. She has filed copy of death certificate of Firdaus Molla in support of his age at the time of his death. Firdaus used to work as a labour of pipe line. She cannot recollect the name of the contractor under whom Firdaus used to work. She filed certificate of his income and profession. She is a resident of Sarisha and the person who issued the said certificate is also a resident of Sarisha. She was not present at the time of the accident. She did not witness the accident. She could not say the name of the person who was present at the time ad place of th accident. At the relevant point of time, her said son was riding a motor cycle. She heard about the accident from her husband namely Saifuddin Molla. The said motor cycle belonged to someone else. He do not know his name. She has not submitted any document in connection with the said moor cycle.

Another witness, claiming to be an eye witness of the said accident was brought by the claimants and examined as P.W. 2. His name is Amir Hossain Molla. The said witness in his examination in chief supported the case of the petitioners. In his cross examination he stated amongst other that the distance between the place of accident and his house is about 4 kms. At the relevant point of time he was passing the place of accident by walking. There was street light on the said place. He could not recollect the registration number of the motor cycle which the victim was riding. He said the registration number of the offending vehicle. He saw the offending vehicle for about 10 seconds. The motor cycle was lying on the road. At the time of the accident Firdous was riding a motor cycle but he has not stated the said fact in his examination in chief.

Both P.W. 1 and 2 in their examination in chief as well cross examination stuck to the same statement. They were unshaken during their cross-examination. Therefore, there is no reason or scope for this Tribunal to doubt the genuineness of the testimony of the aforesaid two witnesses. Thus, it is held that the oral evidence of both P.W. 1 and P.W. 2 are trustworthy and they are relied upon by this Tribunal.

In **BASANT KAUR AND ORS. VS. CHATTAR PAL SINGH & ORS., reported as 2003 ACJ 369 MP (DB)**, it was observed that registration of criminal case against the driver of the offending vehicle was enough to record a finding that the owner of the offending vehicle was responsible for causing the accident. In **NATIONAL INSURANCE CO. LTD. VS. PUSHPA RANA reported as 2009 ACJ, 287**, it has been held that in case the petitioner files the certified copy of the criminal record or the criminal record showing the completion of the investigation by the police or the issuance of charge sheet under Section 279/ 304A IPC or the certified copy of the FIR or in addition the recovery memo or the mechanical inspection report of the offending vehicle, these documents are sufficient proof to reach to the conclusion that the driver was negligent. It was further held that the proceedings under the Motor Vehicles Act are not taking to the proceedings in a civil suit and thus strict rules of evidence are not required to be followed in this regard. It is also settled law that the term rashness and negligence has to be construed lightly while making a decision on a petition for claim for the same as compared to the word rashness and negligence as finds mention in the Indian Penal Code. This is because the chapter in the Motor Vehicle Act dealing with compensation is benevolent legislation and not a penal one.

Now if we consider the trust worthy testimony of both P.W. 1 and 2 together with documentary evidence, marked as Exhibit Nos. 1, 2 and 3 in the light of the aforesaid observations of the Hon'ble Court, it leaves no doubt in the mind of this Tribunal that there was an accident involving the victim of this case and the offending vehicle on 17.10.22 at about 23-40 hours in between Dostipur and Sroter Pole under Falta P.S. and that the cause of the said accident was rash and negligent driving of the driver of the offending vehicle and the police investigation clearly shows that the victim died due to the said accident.

Accordingly, the above documentary evidence along with the oral testimonies of P.W. 1 and 2 has adequately proved that said Firdaus Molla died due to the accident which took place on 17.10.22 involving the offending vehicle and the reason of the said accident was rash and negligent driving of the driver of the offending vehicle.

Accordingly, both the issues are decided in affirmative and in favour of the petitioners.

Issue No.5

The petitioners have filed the certified to be true copy of the seizure lists in connection with Falta P.S. Case No.267 dated 01.11.22 u/s.279/304A I.P.C. (Exhibit No.4 series). From the said seizure lists it can be seen that the insurance certificate of the offending vehicle was seized and its validity was up to midnight of 25.11.22. Exhibit No.6 is the certified to be true copy of insurance policy No. **150622123350008039** in the name of Mritunjay Gazi issued by Reliance General Insurance Co. Ltd. i.e. the opposite party No.2 of this case. The said exhibited document clearly shows that :-

(i)the offending vehicle was insured by the said policy certificate,

(ii)the name of the insured person is Mritunjay Gazi, the opposite party No.1 of this case; and

(iii)that the said policy was valid up to the mid night of 25.11.22.

It has already been held that the accident in question took place on 17.10.22. Therefore, it can be conveniently held that at the time of the accident the offending vehicle was covered by the insurance policy of the opposite party No.2 of this case.

Accordingly this issue is decided in affirmative and in favour of the petitioner.

Issue No.6

On the basis of the finding arrived at by this Tribunal in the aforesaid five issues it can be safely said that the claimants are entitled to get an award of compensation.

Now, the question is what should be the said compensation amount.

While considering this point, ***firstly*** the Tribunal has to keep in mind the direction of the Hon'ble Apex Court given in **State of Haryana – Vs – Jasbir Kaur reported in 2003(7) SCC 484.** In the said judgment it has been observed that the Tribunal constituted under the M.V Act, as provided in section 168, is required to make an award determining the amount of compensation which is to be in real sense "damages" and must be "just and reasonable". The compensation must be just and it cannot be bonanza, an affairs for profit, but the same should not be a pittance as well. ***Secondly***, the Tribunal has to determine the following points :-

I) The age of the victim as on the date of accident;

ii) The income of the victim as on the date of accident ;

Let us now determine the aforesaid two points in the background of the evidence on record of this case.

Determination of the age

The petitioner/claimant has filed this instant case claiming that the victim of this case namely Firdaus Molla was 24 years old at the time of said accident. In support of his said contention they have filed certified to be true copy of post mortem report & death certificate of Firdaus Molla marked as Exhibit No.11 & 12 respectively from which it will appear that at the time of his death Firdaus Molla was aged about 24 and 25 years respectively. The said documents have not been challenged by the O.P. No.2. If we consider the said documents, it can be seen that at the time of the accident the age of the victim was between 20 to 25 years .

Determination of the income

The petitioners have stated in their claim application that the victim was a labour of Kamala Enterprise and used to earn Rs.12,000/- per month. In this regard they examined one Jayadratha Halder, the proprietor of Kamala Enterprise. In his examination in chief the said witness stated that the victim

Firdaus Molla used to work as a labour in his business. He proved the salary certificate of Lt. Firdaus Molla issued by him which has been marked as Exhibit No.17. He brought the trade licence, GST Certificate of his business & his income tax return for the assessment years 2020-21, 2021-22 & 2022-23. He proved the said documents which have been marked as Exhibit Nos.18, 19 and 20 series irrespectively.

In his cross examination he stated amongst other that from the documents which he has filed, it cannot be ascertained that Firdaus Molla was his employee. He did not have any employment agreement with Firdaus Molla. In Exhibit No.17 he has mentioned the date of death of Firdaus Molla as 17.10.22 which he heard from his family members and thereafter prepared the said salary certificate. In the said certificate the date of employment of Firdaus Molla has not been mentioned.

If we go through the evidence of P.W. 1, specially the cross examination ,it can be seen that said P.W. 1, who is the mother of the deceased, admitted that said Firdaus Molla used to work as a labour of pipe line but she could not recollect the name of the contractor under whom her said son used to work. She also categorically admitted that she obtained the certificate of income (Ext.17) after the death of her son and the person who has issued the said certificate is also a resident of Sarisha, the same area where she also resides. P.W. 1 also admitted that she has no other document regarding the income and profession of her deceased son.

P.W. 3 is the proprietor of M/s. Kamala Enterprise. He admitted in his cross examination that he issued the certificate in the name of Firdaus Molla after his death. In the said certificate the date of employment of Firdaus Molla has not been mentioned. He also stated that the date of death of Firdaus Molla was told to him by the family members of said Firdaus Molla.

After going through the aforesaid evidence of P.W. 1 and 3 and also Exhibit No.17, this Tribunal is of the opinion that the income and salary certificate of the deceased cannot be believed or trusted. A certificate which has been obtained after the death of the alleged employee cannot be taken into cognizance by this Tribunal. Moreover, in the absence of any other document, this Tribunal is not inclined to rely upon the Exhibit No.17 as a piece of cogent evidence in support of the income and profession of the deceased Firdaus Molla. Therefore, the claimants have failed to prove the income as well as the profession of Firdaus Molla, since deceased at the time of his death.

In the circumstances, this tribunal is to fix the notional income of the deceased in order to calculate the amount of compensation payable to the claimants at the time of his death.

In order to fix the said notional income, the minimum rates of wages as fixed by the Government of West Bengal for the period from 01.07.22 to 31.12.22 can be relied upon by this Tribunal. According to the circular being Memo No.109/Stat/1/RW/8/2022/LCS/ JLC dated 06.07.22 of Govt. of West Bengal, office of the Labour Commissioner, Statistic Section, the minimum rate of wages in the State of West Bengal for the aforesaid period for any unskilled worker was Rs.7,375/- per month. Accordingly, this Tribunal fixes the notional income of the deceased at Rs.7,375/- per month at the time of his death.

In determining the total compensation amount the following two judgments of the Hon'ble Supreme Court of India are very important as they lay down the total guidelines to be followed in this regard :-

1. Sharla Verma (Smt.) & Ors. - Vs – Delhi Transported Corporation & Anr. Reported in (2009) 6 S.C C.121

2. National Insurance Co. Ltd. - Vs – Pranay Sethi & Ors. reported in (2017)16 S.C.C. 680.

This Tribunal has already held that the age of the victim at the time of accident was **25 years.** Therefore, the **multiplier in this case shall be 18** in view of the directions of Hon'ble Apex Court in the above referred two cases.

Income assessed by this Tribunal is Rs.7,375- per month. As the victim was below the age of 40 years there additional 40% of the income is to be awarded as future prospect in terms of the judgment passed in **National Insurance Co. Ltd. - Vs – Pranay Sethi & Ors. reported in (2017)16 S.C.C. 680.**

By this way calculation is as follows :-

i) Income = Rs.7,375/- p.m

ii) 40 % of income to be added as future prospect Rs.7,375/- x 40%

= Rs. 2950/- So, Rs. Rs.7,375/- + Rs. 2950/-= Rs.10,325/-

iii) 1/3rd of (ii) be deducted as personal expenses of the deceased if he had been alive.

Rs. 10,325/- x 1/3 = Rs. 3442/-(rounded of to the nearest rupee)

So, Rs.10,325 – Rs. 3442/- = Rs. 6,883/-

iv) Computation after applying multiplier 18

Rs.6,883/- x 12 x 18 = Rs. 14,86,728/-

In the judgment of the Hon'ble Supreme Court of India reported in 2023(1) TAC 63(S.C.) (Rajwati @ Rajjo & Ors. - Vs. United India Insurance Co. Ltd.) and 2020(3) T.A.C. 711 (S.C) (New India Assurance Company Limited vs. Smt. Somwati and Others) the Hon'ble Apex Court has observed that consortium is to be granted to all the claimants individually and seperately. Accordingly, this Tribunal is of the opinion that compensation for loss of consortium is to be granted to all the claimants individually.

Accordingly, the claimants will get funeral expenses to the extent of Rs. 15,000/-. As the claimants No.3 is the minor daughter of the deceased, paternal consortium of Rs.40,000/- is to be awarded to her for her loss in the care and protection of her father who died due to motor vehicles accident. As the claimant Nos.1 and 2 are the parents of the deceased, parental consortium of Rs.40,000/- each i.e. Rs.80,000/- is to be awarded to the said claimants for loss in the care and protection of their son who died due to motor vehicles accident. Further an amount of Rs.15,000/- is to be awarded towards loss of estate.

So, the amount becomes-- Rs. 14,86,728/- + Rs. 15,000/- + Rs.1,20,000/- + Rs. 15,000/- = Rs.16,36,728/-.

As per section 171 of the M.V. Act, the claimants/petitioners are entitled to get an interest of at least 6% per annum on the total compensation amount from the date of filing of the claim petition i.e. 13.12.22 till realization of the compensation amount.

Accordingly, this issue is also decided in favour of the claimants.

Claimants are directed to pay the deficit as well as additional Court fees at once.

Hence it is,

ORDERED

That the **M.A.C. Case No.587 of 2022** be and the same is **allowed** on contest against the O.P. No. 2 / Reliance General Insurance Co. Ltd. and exparte against the O.P. No.1(owner of vehicle) but without costs.

The claimants/petitioners together do get an award of **Rs.16,36,728/-. (Rupees sixteen lakhs thirty six thousand seven hundred and twenty eight only)** as compensation.

The O.P No.2 (Reliance General Insurance Co. Ltd.) being the Insurer is directed to pay the awarded amount by issuing three A/c. Payee cheques of Rs. 5,45,576/- each in favour of the claimants along with the interest as stated above within 30 days hereof failing which claimants will at liberty to put this order into execution with further interest @ 09% from the date of order till the date of realization. The amount payable to the minor daughter of the deceased shall be deposited in fixed deposit in any nationalized bank by the claimant nos. 1 & 2 and the said fixed deposit cannot be encashed before the said minor daughter attain majority. Photocopy of the fixed deposit certificate is to be filed by the claimant nos. 1 & 2 before this Tribunal.

Let a copy of this judgment be given to both the parties through their Ld. Advocates for information and compliance.

Dictated & corrected by me

Judge, M.A.C. Tribunal
Fast Track, 2nd Court,
Diamond Harbour
South 24 Parganas

Judge, M.A.C. Tribunal
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