

Form No.J(2)

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

FMA 543 of 2012

With

COT 20 of 2019

Smt. Kashi Nath Basak & Ors.

Versus

Bajaj Allianz General Insurance Co. Ltd & Anr.

For the appellants/claimants. : Mr. Krishanu Banik

For the respondent nos. 1 : Mr. Rajesh Singh

Heard & Judgment on : 28th April, 2025

Ananya Bandyopadhyay, J:

1. The Learned Advocates representing the respective parties are present.
2. The Learned Advocate representing the appellant/insurance company submits that the insurance company had preferred an appeal against the impugned judgment dated 16.08.2011 passed by the learned Chief Judge, City Civil Court in M.A.C. case No. 227 of 2009.
3. The Learned Advocate representing the appellant/insurance company on 24th September, 2022 had submitted before the Lok

Adalat held by the High Court Legal Services Committee that the claimants had received the entire awarded sum in execution case before the Learned Tribunal. Consequently, the appellant/insurance company was allowed to withdraw the appeal and according to the appeal being FMAT 1532 of 2012 now re-numbered as FMA 543 of 2012 was dismissed as withdrawn. A copy of the award dated 24th September, 2022 pronounced by the Bench I, High Court Legal Services Committee be made a part of this order.

4. The Learned Advocate representing the appellant/insurance company during the course of hearing today submitted that it was not to his knowledge that the claimants had received the entire award in execution case before the Learned Tribunal as the same was communicated by the official of the appellant/insurance company and further submitted that the appellant/insurance company could not seek for further prayer to consider its stands against the impugned judgment and order.
5. The Learned Advocate representing the respondent Nos. 1 to 4/claimants submitted to have filed a cross objection being COT 20 of 2019 *inter alia* claiming compensation under Section 163A of the Motor Vehicles Act. The respondent No.1 to 4/claimants were entitled to a sum of Rs. 5,00,000/- as a consolidated

amount towards compensation which has been refuted by the Learned Advocate representing the appellant/insurance company.

6. The respondent Nos.1 to 4/claimants are entitled to a sum of Rs. 5,00,000/- along with an interest at the rate of 6% per annum from the date of filing of the application under Section 163A of the Motor Vehicles Act till the date of its actual realization. Vide order dated 24th January, 2025 the name of the appellant No.2 had been expunged on account of her death. Her legal heirs being appellant No.1 Kashi Nath Basak, appellant No.3 Ranu Dutta and appellant No.4 Bisnu Basak are entitled to the compensation award.
7. The learned Advocate representing the appellant/Insurance Company submits to have deposited a sum of Rs. 1,24,500/=(Rs. 25,000 + 99,500) through two separate cheques as per challan filed by the learned advocate representing the appellant/insurance company.
8. The Learned Advocate representing the appellant/insurance company is to deposit surplus amount of Rs. 3,75,500/- 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 .

9. The office of the Registrar General, High Court, Calcutta is directed to encash the said cheque and thereafter disburse the same to the present appellant Nos. 1 i.e. Kashi Nath Basak, appellant No. 3 i.e. Ranu Dutta and appellant No. 4 i.e. Bisnu Basak/claimants in equal proportion on proof of proper identification of the appellant Nos. 1,2 and 4/claimants subject to payment of ad valorem Court's fees. The office of the learned Registrar General, High Court at Calcutta to note the change in address of appellant No.3 as mentioned in the CAN application being CAN 2 of 2024.
10. The instant appeal is disposed of accordingly.
11. The pending applications if any stands disposed of.
12. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.
- 13.

c.m.

(Ananya Bandyopadhyay, J.)