

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

Present:

The Hon'ble Justice Ajay Kumar Gupta

FMAT (MV) 58 of 2025

Jharna Malodas

Versus

The Managing Director, North Bengal State Transport

For the Appellant : Mr. Gobinda Saha, Adv.
Ms. Srija Bhowmik, Adv.
Mr. Milan Ch. Laskar, Adv.
Ms. Priyanka Dey, Adv.
Ms. Sanghai Chowdhury, Adv.

For the Respondent : Mr. Bikramaditya Ghosh, Adv.

Heard on : 07.07.2026

Judgment on : 10.07.2026

Uploaded on : 10.07.2026

Ajay Kumar Gupta, J.:-

1. This instant Appeal has been filed by the appellant/claimant assailing the Judgment and Award dated 13th day of June, 2025 passed by the Learned Judge, Motor Accident Claims Tribunal, 2nd Fast Track Court, Jalpaiguri in M.A.C. Case No. 384 of 2016,

whereby the Learned Tribunal Judge directed to the Managing Director, N.B.S.T.C., to pay compensation of Rs. 3,28,500/- to the appellant/claimant by way of issuing A/C payee cheque along with interest @ 6% p.a. from the date of filing of this claim application i.e. on and from 21.11.2016 till realization of the said award within 60 days from 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 claimant has preferred this appeal only on sole ground that 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 allow a fixed compensation of Rs. 5, 00,000/- in place of Rs. 3, 28,500/-.

3. Learned counsel appearing on behalf of the appellant/claimant submitted that the accident was occurred on 09.06.2016 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. Learned counsel 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 Hon'ble 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 has been noted by the High Court and accordingly, the

¹ 2018 SCC Online Cal 11751, 2019 (2) TAC 143 (Cal)

² SPECIAL LEAVE PETITION (CIVIL) NO. 6260 OF 2019.

claim has been enhanced to Rs.5,00,000/= (Rupees Five lakhs)."

5. On the other hand, learned counsel appearing on behalf of the Respondent 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 09.06.2016 at about 2.00 PM while the deceased Sujit Malodas along with his friend standing by the road side near Oodlabari Hindi High School, under PS – Malbazar, Dist.- Jalpaiguri, one bus bearing No. WB-63-9322 coming at high speed dashed the said deceased and, as a result, the said deceased sustained serious injuries on his person. After the accident, the deceased was taken to Malbazar Hospital where the attending doctor declared him dead.

7. Claimant being the legal heir and representative has 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 claimant. As per the Notification and

judgments relied by the Appellant, this Court finds that the Learned Tribunal Judge failed to consider the Notification dated 22.05.2018 and passed the impugned award as aforesaid on 13.06.2025 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 claimant is entitled to get a fixed compensation of Rs. 5,00,000/- on account of death caused by Motor Vehicles Accident instead of Rs. 3,28,500/-.

9. Accordingly, the Managing Director, N.B.S.T.C. is directed to pay a lump sum compensation amount of Rs. 5, 00,000/- along with interest @ 6% per annum from the date of filing of the application i.e. on 21.11.2016 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 two (2) months from this date.

10. 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 judgment and award of the learned Tribunal. The compensation shall be released in favour of the appellant/claimant upon proper identification and subject to verification of the payment of ad valorem Court fees on the total compensation amount, if not already paid.

11. It is further directed to the respondent 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.

12. With the above observations, the instant appeal being **FMAT (MV) 58 of 2025** is, thus, **allowed** after modifying the impugned judgment and award dated 13th day of June, 2025 to the extent as aforesaid without order as to costs.

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

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

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

16. 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.)