

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

Present:

The Hon'ble Justice Ajay Kumar Gupta

FMA 1 of 2025

SMT. SUNITA DEVI

Versus

RELIANCE GENERAL INSURANCE CO. LTD. & ANR.

For the Appellant	:	Mr. Rajesh Kumar Sharma, Adv. Mr. Bickey Sharma, Adv.
For the Insurance Company	:	Mr. Partha Bhowmik, Adv. Ms. Sampurna Roy, Adv.
Heard on	:	02.07.2026
Judgment on	:	08.07.2026
Uploaded on	:	08.07.2026

Ajay Kumar Gupta, J.:-

1. The present appeal is directed against the Judgment and Award dated 22.05.2024 passed by the Learned Judge, Motor Accident Claims Tribunal, 1st Court, Siliguri in M.A.C. Case No. 77 of 2009 under section 163A of the Motor Vehicles Act, 1988.
2. By the said judgment, the Learned Tribunal Judge allowed the MAC Case on contest against the opposite party no. 2/Reliance General

Insurance Company and *ex parte* against the opposite party no. 1/Naresh Kumar Roy without cost, and awarded a compensation to the tune of Rs. 4,17,500/- together with interest @ 6% per annum from 02.07.2015 till full realisation from the opposite party no. 2.

3. Learned counsel appearing on behalf of the appellant/claimant submitted that the instant appeal has been filed mainly on three-fold grounds: -

Firstly, the Tribunal did not consider the victim's actual income while granting compensation.

Secondly, the interest granted @ 6% from July 2, 2015, although the application has been filed by the claimant on 17.06.2009, as such, the interest should be granted from the date of filing, i.e. on 17.06.2009, till realisation.

Thirdly, very less amount has been awarded under the heading "General Damages", i.e. loss of state, funeral expenses and loss of consortium. Therefore, after calculation of interest from the date of filing i.e. on 17.06.2009, till realisation, and adding the proper general damages, the amount of compensation should be more and the same may be enhanced as entitled by the appellant/claimant.

4. Per contra, learned counsel appearing on behalf of the Insurance Company submitted that the case was filed under Section 163A of the M.V. Act. In such cases, the amount awarded by the Tribunal is correct and just, and requires no interference by this court.
5. Heard the learned counsels for the rival parties and on perusal of the materials on record, this Court finds that the learned Tribunal has awarded a sum of Rs. 4,17,500/- on account of death of victim Akhilesh Ray in an application filed under Section 163A of the Motor Vehicles Act, 1988 to the effect that on 04.03.2008, at about 3.30 AM, the victim Akhilesh Ray was coming to Maisha PT-II at Golakganj, P.S. - Agamani driving the insured vehicle being No. WB-23-8448 (Truck) and after losing control over the vehicle somehow, he met with an accident, resulting in grievous injuries in various parts of his body. He was primarily taken to Agomain L.H.C. and, thereafter, taken to Civil Hospital Dhubri, Assam. On 04.03.2008, he was referred to Paramount Hospital Pvt. Ltd. at Siliguri for better treatment. Due to the grievous injuries of the victim, the condition of the victim deteriorated day by day. Finally, he succumbed to his injuries on 11.03.2008 at Paramount Hospital Pvt. Ltd. at about 2.30 AM.
6. The sole legal heir and representative of the victim filed the compensation case under Section 163A of the MV Act and adduced

the evidence of P.W. 1 and exhibited a number of documents, including the Insurance Certificate of the offending vehicle, which was valid from midnight of 08.04.2007 to midnight of 08.04.2008. The driving license of the deceased and some other relevant documents were also marked exhibited.

7. It is an undisputed fact that the accident occurred and the victim died due to serious injuries caused by the aforesaid accident. In an application filed under Section 163A of the M.V. Act, i.e., “no fault liability”, there is no need to prove the rash and negligent driving of the driver of the offending vehicle being No. WB-23-8448 (Truck), involved in the accident.
8. It appears from the judgment that the Learned Tribunal has assessed the compensation after relying on a judgment passed in the case of ***Laxmi Devi and Others v. Md. Tabbar and Anr.***¹ and considered the notional income @ Rs. 3,000/- per month. The Learned Tribunal also awarded compensation to the tune of Rs. 9,500/- as general damages (Rs. 2,000/- as funeral expenses, Rs. 5,000/- as loss of consortium and Rs. 2,500/- as loss of state) and finally after calculation, total compensation to the tune of Rs. 4,17,500/- has been awarded in favour of the appellant.

¹ 2008 (2) T.A.C. 394 (SC)

9. The only consideration for this court here is what would be the actual payable compensation to the appellant/claimant. This Court finds that the Learned Tribunal Judge failed to consider the Notification dated 22.05.2018 as well as amendment of the Motor vehicles Act and passed the impugned award on 22.05.2024 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 in the case of ***Urmila Halder vs. New India Assurance Co. Ltd. & Ors. (FMA 446 of 2010)***². It is a settled provision of law that when an application is filed under Section 163A of the M.V. Act for compensation towards the death of the victim and when there are no disputes about the motor accident and death of the victim due to such accident, a lump sum amount of Rs. 5,00,000/- ought to be granted in view of the Notification dated 22.05.2018. The accident occurred on 04.03.2008, and the Notification was issued and came into force from 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. The Hon'ble High Court in the case of ***Urmila Halder vs. New India Assurance Co. Ltd. & Ors. (FMA 446 of***

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

2010)³ has held that a total sum of Rs. 5,00,000/- in a fatal accident, under Section 163A of the Motor Vehicles Act, 1988 should be paid. It has retrospective effect even though the Notification has been come into effect on and from 22nd May, 2018; as such, applications pending prior to the amendment shall have retrospective effect.

10. Subsequently, the National Insurance Company travelled up to the Hon'ble Supreme Court. The Apex Court in the case of **The New India Assurance Co. Ltd. Vs. Urmila Halder**⁴, has affirmed the view taken by the 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 claim has been enhanced to Rs.5,00,000/= (Rupees Five lakhs).”

11. 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

³ 2018 SCC Online Cal 11751, 2019 (2) TAC 143 (Cal)

⁴ SPECIAL LEAVE PETITION (CIVIL) NO. 6260 OF 2019.

compensation of Rs. 5,00,000/-, instead of Rs. 4,17,500/-, on account of death caused by a motor vehicle accident.

- 12.** 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.**⁵, 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 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)

- 13.** Consequently, the claimant is also entitled to get interest on the awarded compensation amount from the date of filing of the claim application, i.e. on 17.06.2009 till realization.

⁵ **2009 (3) TAC (Cal) 783**

- 14.** It is informed that the appellant/claimant has already received the compensation amount in terms of the order of the learned Tribunal.
- 15.** Thus, the appellant/claimant is entitled to Rs. 5,00,000/- which shall carry interest @ 6% per annum from the date of filing of the claim application, i.e. from 17.06.2009 till final realisation minus amount already received by the appellant.
- 16.** It is further directed to the Reliance General Insurance Company that while paying the compensation amount, shall also 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 and the same needs to be paid along with the aforesaid compensation amount.
- 17.** Accordingly, the Reliance General Insurance Company is directed to pay the enhanced amount by way of cheque. The same shall be deposited before the Office of Learned Registrar, Circuit Bench of Calcutta High Court at Jalpaiguri within a period of two months from this date; in default, interest will be charged @ 9% p.a. simple interest on the amount not paid to the claimant till final realisation.
- 18.** Learned Registrar, Circuit Bench of Calcutta High Court at Jalpaiguri, upon deposit of the enhanced 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 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.

- 19.** With the above observations, the instant appeal being **FMA 1 of 2025** is, thus, **allowed** after modifying the impugned judgment and award dated 22.05.2024 to the extent as aforesaid without order as to costs.
- 20.** Connected applications, if any, are also, thus, disposed of.
- 21.** Let a copy of this Judgment, along with the Trial Court Records, if any, be sent back to the learned Court below forthwith for information.
- 22.** All parties shall act on the server copy of this judgment uploaded on the official website of High Court at Calcutta.
- 23.** 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.)