

(2019) 09 CAL CK 0216

Calcutta High Court

Case No: C. Appeal From Order (FMA) No. 1076 Of 2019, Adms. C. Appl Order (FMAT) No. 679 Of 2019

New India Assurance
Company Limited

APPELLANT

Vs

Santosh Kumar Rastogi
& Ors

RESPONDENT

Date of Decision: Sept. 13, 2019

Acts Referred:

- Motor Vehicles Act, 1988 - Section 163A

Hon'ble Judges: Sanjib Banerjee, J; Suvra Ghosh, J

Bench: Division Bench

Advocate: Sucharita Paul, Swarnali Biswas

Final Decision: Disposed Of

Judgement

The appeal arises out of an award on a petition under Section 163A of the Motor Vehicles Act, 1988.

The appellant claims that the total amount that could have been awarded was Rs.1,41,500/- and, , , , , , nothing more. , The claimants are

represented and the claimants acknowledge that in view of the several Supreme Court judgments, they are not entitled to general damages to the

extent granted by the tribunal. However, the claimants say that the income determined by the tribunal should not be altered, nor the rate of interest

granted by the tribunal. The award needs to be corrected as several errors have crept into the same. However, since the income was held to be

Rs.3,300/- per month, such part of the award does not call for any interference. At the same time, when the provision limits the quantum on account

of general damages to Rs.9,500/-, the tribunal had no authority to grant general damages to the extent of Rs.2.25 lakh.

The impugned award dated April 11, 2019 is modified by providing for gross damages to the tune of Rs.1,41,500/-together with interest thereon at the

rate of 8% per annum from the date of lodging the claim till the receipt of payment. The details are indicated hereinbelow.

Upon taking the income of the victim to be Rs.3,300/- per month and annualising the same, we get a figure of Rs.39,600/-from which one-third has to

be deducted on account of personal expenses and the multiplier of 5 applied on the balance amount of Rs.26,400/-. The claimants are thus found

entitled to net compensation of Rs.1.32 lakh together with general damages of Rs.9,500/-, adding upto a gross amount of Rs.1,41,500/- together with

interest thereon at the rate of 8% per annum from the date of lodging the claim till the receipt of payment.

The amount deposited by the insurance company may be withdrawn together with the interest accrued thereon.

The insurance company will calculate the amounts due to the individual claimants and make over cheques to the claimants by November 15, 2019. If

Advocate for the claimants furnishes the details of the bank accounts of the claimants to Advocate for the insurance company within a fortnight from

date, such money will be directly credited to the bank accounts of the respective claimants.

FMA 1076 of 2019 together with CAN 6288 of 2019 are disposed of.

There will be no order as to costs. Urgent certified website copies of this order, if applied for, be made available to the parties upon compliance with

the requisite formalities.