

9Sl. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
			AO No.06 of 2013 <u>Hon'ble Sharad Kumar Sharma, J.</u> Mr. K.K. Shah, Advocate, for the appellant. Mr. Pradeep Chamyal, Advocate, for the respondent. This appeal from order has been preferred by the Insurance Company against the impugned award dated 19.10.2012, as it was rendered in MACP No.07 of 2009, "Piyush Gupta Vs. National Insurance Company Limited" by virtue of which, the learned Motor Accident Claims Tribunal, had awarded an amount of Rs.64,500/- to the claimants/respondents. By virtue of the impugned award, as it has been rendered by the learned Motor Accident Claims Tribunal, the recoverable rights has been reserved in favour of the Insurance Company, and the amount, thus, directed to be remitted to the claimants had been permitted to be recovered by the Insurance Company from the owner of the vehicle. It is the case of the Insurance Company that the owner of the vehicle has not filed any independent appeal from order. This appeal from order was admitted on 03.01.2013, and ever since then it is pending and according to the cause list now the matter is fixed for 22.04.2024. The claimants/respondents have filed an urgency application praying for an early listing of the matter. Learned counsels for the parties have consented upon that this appeal from order can be preponed and heard today itself, and adjudicate it finally qua the issue involved pertaining to the grant of the recoverable rights to the Insurance Company. The precise facts, which involved consideration are that on 22.11.2008, the accident is said to have occurred, which has caused certain

			injuries to the claimants when they were travelling on the motor cycle bearing Registration No.UP25B4707, and it was alleged that the accident has chanced because of the rash and negligent driving of the offending vehicle i.e. the Indica Car bearing Registration No.UK12 9635. It was contended by the claimants that it was exclusively on account of the rash and negligent driving, that the accident has chanced due to which they have suffered injuries, and they were forthwith taken up to the Government Medical Hospital for their treatment, and after the initial treatment they were referred to the specialized hospital for treatment and consequently they were admitted in Trauma and Infertility Hospital, Muzzafarnagar. In the proceedings which were thus held before the claim petition in MACP No.07 of 2009, “Piyush Gupta Vs. National Insurance Company Limited” the claimant contended that after the surgery being conducted upon him, the plates were placed by the Doctors after the surgery, thus he contended that he had invested about Rupees Seventeen Lakh, and he has claimed the said amount along with the interest payable on it @ 18% interest. The matter was contested before the learned Motor Accident Claims Tribunal, and they came up with a case that rather the accident has chanced was on account of the rash and negligent driving of the motorcycle bearing Registration No.UP25B 4707, and, thus, the insurance company of the offending car, would not be responsible for remittance of any compensation as claimed by the claimants in the proceedings before the court below. The learned Motor Accident Claims Tribunal have framed the following issues:- (1) क्या दिनांक 27.11.2008 को कोटद्वार-दुगडडा मार्ग पर पी0डब्लू0डी0 कालोनी के समीप जब यात्री पीयूष गुप्ता अपनी मोटर साईकिल से आ रहा था तो इण्डिका कार संख्या यूके-12-9635 के चालक द्वारा तेजी व लापरवाही से चलाते हुए मोटर साईकिल पर टककर मारी गयी जिससे पीयूष गुप्ता को गम्भीर चोटें आयी और वह घायल हो गया ?
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		was determined as to be Rs.10,000/-, and accordingly a total amount of Rs.64,500/- was shown to be due to be paid to the claimant/respondent. Owing to the observations made in the impugned award dated 19.10.2012, where the said amount was determined to be made payable by the Insurance Company, amounting to Rs.64,500/- with the interest payable on it @ 9%, since the liability has been fastened upon the owner of the vehicle holding thereof, that rather the accident has chanced due to the rash and negligent driving of the offending vehicle, and particularly, when the owner of the offending vehicle has not filed any appeal from order questioning the issue of grant of recoverable rights to the Insurance Company, the Insurance Company, as such, at this stage, cannot be said to be prejudiced by the impugned judgment dated 19.10.2012, granting the recoverable rights to the Insurance Company. Thus, the claim petition and the modalities adopted by the learned Motor Accident Claims Tribunal while determining and quantifying the compensation of Rs.64,500/- qua the present appeal from order preferred by the insurance company do not suffer from any apparent error because the right of recovery has already been reserved for the present appellant. Thus, the appeal from order lacks merit and the same is accordingly dismissed. However, the connected AO No.55 of 2013, as preferred by the claimant for enhancement of the amount of compensation that is being de-linked to be considered by an appropriate court on the date already fixed by the coordinate Bench. (Sharad Kumar Sharma, J.) 04.12.2023 NR
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