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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

CNR No. DLHC010221282022

+ **MAC.APP. 158/2022 & CM APPL. 26815/2022**

THE ORIENTAL INSURANCE CO.LTD Appellant

Through: Mr. Pankaj Seth and Ms. Shruti Jain,
Adv.

versus

SMT. SHEELA AND ORS Respondent

Through: Mr. S.N. Parashar and Mr. Ritik Singh,
Adv.

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

19.08.2026

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1. This appeal has been filed by the Insurance Company assailing the impugned award dated 28th February 2022 passed by Motor Accidents Claims Tribunal [**MACT**], North-West, Rohini Courts in MACT No. 379/2018 awarding Rs.9,05,840/- with interest at 6%.

2. The accident occurred on 1st April 2018 at 10:45 pm near Community Center of Nimri Colony, when *Om Prakash* (**'deceased'**), was returning to his residence when a Wagon R car bearing registration No. UP16-ET-0058 (**'offending vehicle'**) hit the *rehri* of the deceased with great force. As a result of the accident, the deceased suffered fatal injuries and passed away on 5th April 2018.

3. As regards the quantum of compensation, *Mr. Pankaj Seth*, counsel for appellant/Insurance Company, challenges the deduction of 1/3rd towards



personal expenses, since the children of deceased were major in age and were wrongly treated as dependents, therefore, deduction of 50% ought to have been done.

4. Moreover, loss of consortium awarded at Rs.3,20,000/- has been challenged, as being excessive.

5. On both these issues, *Mr. S.N. Parashar*, counsel for claimants, points out that the MACT had noted that the deceased is survived by the wife and 7 children and, therefore, loss of consortium as per the principles enunciated in ***National Insurance Co. Ltd v. Pranay Sethi*** (2017) 16 SCC 680 are correct.

6. Further, it was stated by the wife of deceased (*'PWI'*) had deposed that they had 7 children, out of which 6 were married. The unmarried son, being Hemant was 28 years old and dependent on the deceased. Accordingly, the assessment of MACT by considering the wife and unmarried son to be dependent on the deceased was correct.

7. The Court, therefore, does not see any reason to intercede in these findings.

8. As regards the plea raised by appellant/Insurance Company that 50% should have been deducted may not be correct and applicable to a person at 69 years of age, who already had a large family and would have been contributing for sustenance of his family to a certain extent. His situation cannot be equated to a bachelor and deduction of 50% on that account cannot be made.

9. Accordingly, the deduction at 1/3rd made by the MACT was appropriate.

10. Moreover, loss of consortium awarded at Rs.3,20,000/- (40,000 x 8), has also been awarded correctly, considering there were 8 claimants.



11. Another issue has been raised by appellant/Insurance Company challenging the liability, against the driver of offending vehicle on the ground that it was a commercial vehicle and the driver only had a light motor vehicle ('*LMV*') licence.

12. However, this issue has since been decided by the Supreme Court in ***Mukund Dewangan v. Oriental Insurance Co. Ltd.***, (2017) 14 SCC 663 SCC 663 wherein it was held that a person having a license for an LMV with weight below 7500 kgs, can drive a transport vehicle. Relevant observation of the Court is extracted as under:

“17. The definition of “light motor vehicle” makes it clear that for a transport vehicle or omnibus, the gross vehicle weight of either of which or a motor car or tractor or roadroller the unladen weight of any of which, does not exceed 7500 kg. “Gross vehicle weight” has been defined in Section 2(15). The motor car or tractor or roadroller, the unladen weight of any of which does not exceed 7500 kg as defined in Section 2(48) of the Act, are also the light motor vehicle. No change has been made by Amendment Act 54 of 1994 in the provisions contained in Sections 2(21) and 10(2)(d) relating to the light motor vehicle. The definition of “light motor vehicle” has to be given full effect to and it has to be read with Section 10(2)(d) which makes it abundantly clear that “light motor vehicle” is also a “transport vehicle”, the gross vehicle weight or unladen weight of which does not exceed 7500 kg as specified in the provision. Thus, a driver is issued a licence as per the class of vehicle i.e. light motor vehicle, transport vehicle or omnibus or another vehicle of other categories as per gross vehicle weight or unladen weight as specified in Section 2(21) of the Act. The provision of Section 3 of the Act requires that a person in order to drive a “transport vehicle” must have authorisation. Once a licence is issued to drive light



motor vehicle, it would also mean specific authorisation to drive a transport vehicle or omnibus, the gross vehicle weight or motor car, roadroller or tractor, the unladen weight of which, as the case may be, does not exceed 7500 kg. The insertion of “transport vehicle” category in Section 10(2)(e) has no effect of obliterating the already defined category of transport vehicles of the class of light motor vehicle. A distinction is made in the Act of heavy goods vehicle, heavy passenger motor vehicle, medium goods vehicle and medium passenger motor vehicle on the basis of “gross vehicle weight” or “unladen weight” for heavy passenger motor vehicle, heavy goods vehicle, the weight, as the case may be, exceed 12,000 kg. “Medium goods vehicle” shall mean any goods carriage other than a light motor vehicle or a heavy goods vehicle; whereas “medium passenger motor vehicle” means any public service vehicle or private service vehicle or educational institution bus other than a motorcycle, invalid carriage, light motor vehicle or heavy passenger motor vehicle.”

(emphasis added)

13. Therefore, in view of the above, this plea is untenable.
14. Accordingly, the appeal is dismissed.
15. By order dated 24th September 2024, this Court had directed appellant/Insurance to deposit the entire awarded amount, along with accrued interest.
16. Considering that the appeal has been dismissed, the deposited amount along with accrued interest will be released, as per the directions given by the MACT.
17. Statutory amount be refunded to appellant/Insurance Company, only if the order of deposit has been complied with.
18. Pending applications, if any, are rendered infructuous.



19. Order be uploaded on the website of this Court.

ANISH DAYAL, J

AUGUST 19, 2026/MK/sp