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

Date of Decision: 29th February, 2016

+ **CM(M) No. 197/2016**

DELHI TRANSPORT CORPORATION

..... Appellant

Through Mr. Sarfaraz Khan and Mr. Ataur
Rahman, Advs.

versus

SMT. SUSHILA SOLANKI & ORS.

..... Respondent

Through None

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT

R.K.GAUBA, J (ORAL):

1. The claim petition under Sections 166 and 140 of Motor Accident Claims Tribunal, 1988 (MV Act), registered as suit No.64/1991 by the Motor Accident Claims Tribunal was inquired into with another connected similarly placed claim petition, both resulting in judgment dated 25.01.2006 whereby compensation in the sum of ₹12,62,000/- excluding interim award with interest at 7.5% from the date of filing of the petition (25.01.1991) till realization was granted in favour of the first and second respondents (collectively the claimants). An appeal was preferred against the said judgment and award of the Tribunal before this Court. The said appeal (MAC.APP.No.293/2006) was decided by a learned Single Judge of this

Court by judgment dated 04.05.2012 whereby the compensation was reduced to ₹6,59,800/- though retaining the direction of interest at 7.5% per annum as granted by the Tribunal. The claimants, feeling aggrieved by the same, preferred civil appeal No.10030/2013 before the Supreme Court. The said appeal was allowed by order dated 31.10.2013 restoring the judgment and order passed by the Tribunal and setting aside the order passed by the High Court. Noticeably, in reaching the said conclusion, the Supreme Court had observed that the order passed by the High Court deserved to be set aside and the award passed by the Tribunal “be restored *in toto*”. The operative part of the order passed by the Supreme Court shows that the claimants were held “entitled for the compensation so awarded by the Tribunal, after deducting the amount already paid, if any, with interest at the rate of 6% per annum from the date of the order passed by the Tribunal.”

2. It appears that the claimants had some doubts as to the operative part of the order of Supreme Court and, therefore, moved an application for clarification which by order dated 15.04.2014 was allowed to be withdrawn with liberty to file a review petition. Subsequently, a review petition (no.1429/2014) was moved but the same was dismissed by order dated 07.08.2014.

3. The Delhi Transport Corporation (DTC) which was one of the party respondents in the proceedings arising out of claim petition before the Tribunal, this Court and in further appeal before the Supreme Court, contends that the directions of the Supreme Court in the above-mentioned order mean that the claimants have been denied the benefit of interest from the date of filing of the petition till the judgment of the Tribunal. In its

submissions, the directions of the Supreme Court have to be understood to be conveying that the claimants are entitled to interest at the rate of 6% per annum only from the date of judgment of the Tribunal till realization.

4. The above contention of DTC raised in the course of execution proceedings, however, was rejected by order dated 19.01.2016 of the Tribunal, relevant portion whereof reads as under :

“10. The Motor Vehicles Act is a beneficial piece of legislation which is meant to provide remedy to victims/legal representatives of deceased of motor accidents. The Tribunal in the instant case had admittedly awarded an amount of ₹12,62,000/- in favour of the claimants which it is not disputed was restored by the order of the Hon’ble Supreme Court. The only dispute is regarding the rate of interest. It is pertinent that the Hon’ble Supreme Court had restored the award passed by the Tribunal in toto and set aside the order passed by the Hon’ble High Court and it was directed that the claimants would be entitled for compensation awarded by the Tribunal after deducting the amount already paid, if any, with interest @ 6% per annum from the date of the order passed by the Tribunal. Once the award passed by the Tribunal was restored in toto, the amount of interest awarded pendelute @ 7.5% per annum from the date of filing of the petition till the date of the award merged with the compensation awarded and the interest which was awarded from the date of order of the Tribunal stood modified to 6% per annum.”

5. The petition at hand questions the view taken by the Tribunal on the above subject on the contention that the Supreme court order clearly shows that no interest has been awarded anterior to the date of judgment of the Tribunal.

6. On careful consideration of the submissions made, this Court finds no merit in the petition. The order of the Supreme Court clearly shows that the judgment and award passed by the Tribunal stood restored “*in toto*”. The directions in the said judgment and award included not only the computation of the compensation payable but also the effect of interest leviable thereupon and the date from which it was to become effective. The Tribunal has correctly appreciated the fact situation and rejected the contentions of DTC.

7. The orders passed on the application for clarification or for review do not reveal the contentions raised. Even if such applications were filed by the claimants under some misconception it does not mean that the unambiguously worded order of the Supreme Court dated 04.05.2012 is to be construed in the manner suggested by DTC.

8. The petition is devoid of substance and is dismissed *in limine*.

R.K. GAUBA
(JUDGE)

FEBRUARY 29, 2016
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