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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Decision: 02nd May, 2016

+ **MAC.APP. 498/2014**

SMT. PHOOLMATI & ANR. Appellants
Through: Ms. Monika, proxy for Mr. S N
Parashar, Adv.

versus

SH. SANDIP SINGH & ORS Respondents
Through: Mr. Sanjay Goel, Adv. for R-1 & 2
Mr. L K Tyagi, Adv. for R-3

CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT

R.K.GAUBA, J (ORAL):

1. Anil Kumar Kashyap, a bachelor, died in motor vehicular accident that occurred on 03.09.2007 involving negligent driving of truck bearing No.UP 17B 9085 (offending vehicle) admittedly insured against third party risk with the third respondent (insurer). His parents (appellants) instituted an accident claim case (MACT case No.835/2007) on 21.09.2007 seeking compensation under Sections 140 and 166 of Motor Vehicles Act, 1988 (MV Act). The tribunal, after inquiry, awarded compensation in the total sum of ₹6,75,820/- with interest at 7.5% per annum calling upon the insurer to pay but granting it recovery rights against the driver and owner of the offending vehicle on account of finding of breach of terms and conditions of the policy. The amount awarded includes ₹25,000/- each towards funeral

expenses and loss of love & affection and ₹10,000/- each towards loss of estate.

2. At the hearing, the appeal is pressed only to seek enhancement of the non-pecuniary damages and the rate of interest. This Courts finds that the claimants must succeed on both the said contentions.

3. Following the view taken in *Rajesh & Ors. v. Rajbir Singh & Ors.*, (2013) 9 SCC 54 and *Shashikala V. Gangalakshamma* (2015) 9 SCC 150, compensation in the sum of Rs.1 lakh on account of loss of love & affection and Rs.25,000/- each towards loss of estate and funeral expense are added. In the result, the award is enhanced by Rs.90,000/-.

4. Following the consistent view taken by this Court [see judgment dated 22.02.2016 in MAC.APP. 165/2011 *Oriental Insurance Co Ltd v. Sangeeta Devi & Ors.*], the rate of interest is increased to 9% per annum from the date of filing of the petition till realization.

5. The award is modified as above.

6. The insurer is directed to deposit the enhanced portion of the award with proportionate interest with the tribunal within 30 days whereupon it shall be released to the claimants in terms of the impugned judgment.

7. The appeal is disposed of in above terms.

R.K. GAUBA
(JUDGE)

MAY 02, 2016
VLD