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

Decided on: 21st August, 2017

\+ MAC APPEAL No. 135/2017 & CM 5469/2017, 5471/2017

SHRIRAM GENERAL INSURANCE CO. LTD. ..... Appellant
Through: Mr. P. Acharya, Adv.

versus

ASHOK KUMAR & ORS. ..... Respondents
Through: Mr. S.N. Parashar & Ms. Pankaj, Advs. for R-1.

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

JUDGMENT (ORAL)

1. The claim case (no. 521/DAR/16) arising out of detailed accident report (DAR) submitted by police pursuant to investigation into the corresponding criminal case registered by it, at the instance of the first and second respondents (collectively, the claimants) arose out of death of their nine year old child Akash Kumar in a motor vehicular accident by involving motor vehicle described as Tempo bearing registration no. DL 1LR 6967, insured against third party risk with the appellant insurance company. The tribunal has awarded compensation in the sum of Rs. 6,53,160/- and directed the insurer to pay with interest @ 10% per annum.

2. The insurance company, by the appeal at hand, submits that the award is excessive in view of the decision in *R.K. Malik & Anr. vs.*

Kiran Pal & Ors. 2009 (8) Scale 451 and that the interest @ 10% per annum levied as unduly high.

3. It is noted that the tribunal has referred to the decision of this Court in *Chetan Malhotra vs. Lala Ram* dated 13.05.2016 in MAC Appeal no. 554/2010. On being asked, counsel for the appellant fairly conceded that the calculations in the impugned judgment are in accord with the dispensation in *Chetan Malhotra* (supra). In this view, the challenge to the calculation of compensation cannot be accepted.

4. The contention about the rate of interest, however, is correct. There are no special reasons set out in the impugned judgment of the tribunal to justify the unduly high rate of interest. 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 reduced to 9% per annum from the date of filing of the petition till realization.

5. With this modification in the order of the tribunal, the appeal is disposed of.

6. By order dated 10.02.2017, the insurance company had been directed to deposit the awarded amount with interest with the tribunal. The tribunal shall release the amount payable in terms of the modification ordered above, refunding the excess to the insurance company.

7. The statutory amount shall be refunded.

R.K.GAUBA, J.

AUGUST 21, 2017/nk