

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

Date of decision: April 11, 2017

+ **MAC.APP. 443/2016 & C.M.No. 20167/2016**

THE ORIENTAL INSURANCE CO. LTD. Appellant
Through: **Mr. Pradeep Gaur, Advocate**

Versus

SHYAM SUNDER MALHOTRA & ORS. Respondents
Through: **Nemo.**

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
ORAL

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1. Appellant is the Insurer of the truck involved in a road accident on 9th June, 2013 in which *Ms. Diksha Malhotra* had died and in the claim petition by her legal heirs, Motor Accident Claims Tribunal, East District, Karkardooma Courts, Delhi (*hereinafter referred to as the "Tribunal"*) has granted compensation of ₹10,13,424/- with interest @12% p.a.

2. Since the challenge to the impugned Award of 23rd February, 2016 by learned counsel for appellant-Insurer is on the sole ground that rate of interest on the awarded amount is on the higher side, therefore, facts enumerated in the impugned Award need no reproduction. As per last order, service is complete. However, respondents have chosen not to contest this appeal.

3. Upon hearing and on perusal of impugned Award and record of

this case, I find that the Tribunal has granted interest on the awarded amount @12% p.a. while relying upon Supreme Court's decisions in *The New India Assurance Co. Ltd. Vs. Gopali & ors.* 2012 ACJ 2131 SC; *Jiju Kuruvila & ors. Vs. Kunjamma Mohan & ors.* 2013 ACJ 2141 SC and *Puttamma Vs. K.L. Narayana Reddy & ors.* 2014 ACJ 426 SC.

4. During the course of hearing, learned counsel for appellant-Insurer had placed reliance upon decisions of Supreme Court in *Surti Gupta Vs. United India Insurance Co. & ors.* (2015) 11 SCC 457 and *Kumari Kiran Vs. Sajjan Singh* (2015) 1 SCC 539 to submit that rate of interest on the awarded amount be not more than 9% p.a.. Thus, modification of the impugned Award qua the rate of interest is sought in this appeal. Nothing else is urged on behalf of appellant.

5. In the considered opinion of this Court, rate of interest which the awarded amount should carry ought not be more than 9% p.a. in view of Supreme Court's decision in *Surti Gupta (supra)* and *Kumari Kiran (supra)*. Accordingly, the impugned Award is modified to the extent of granting interest @9% p.a. instead of 12% p.a.

6. With aforesaid modification in the impugned Award, this appeal and application are disposed of.

7. Statutory deposit, if any, be refunded to appellant –Insurer as per rules.

(SUNIL GAUR)
JUDGE

APRIL 11, 2017

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