$~R-611

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

Decided on: 01st December, 2017

\+ MAC APPEAL 1067/2012

UNITED INDIA INSURANCE COMPANY LTD. ... Appellant
Through: Mr. P. Acharya for Mr. K.L. Nandwani, Advocate

versus

MAMTA & ORS ..... Respondents
Through: None

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

JUDGMENT (ORAL)

1. By judgment dated 21.05.2012, the Motor Accident Claims Tribunal (Tribunal) decided accident claim case (MACT 1225/10) of first to fifth respondents (collectively, the claimants) and granted compensation in the sum of Rs.7,17,500/-, on account of death of Praveen Singh Khatri in a motor vehicular accident that had occurred on 03.09.2009 involving negligent driving of a motor vehicle described as Tata Sumo bearing registration no.HR-55H-0499, the liability being placed on the appellant (insurer), it having issued an insurance policy covering third party risk in respect of the said vehicle. It may be added that the claimant petition was pressed under Section 163 A of the Motor Vehicles Act, 1988 and the award

included Rs.2,500/- towards funeral charges, besides Rs.25,000/- for loss of estate and Rs.50,000/- towards loss of consortium.

2. It is the said non-pecuniary damages which are questioned by the appeal at hand, exception also being taken to the direction to pay Rs.30,000/- as lawyers fee and Rs.5,000/- as out of pocket expenses.

3. The claimants have not appeared at the stage of final hearing.

4. Following the dispensation of a Constitution Bench of the Supreme Court, rendered on 31.10.2017 in *SLP (C) 25590/2014, National Insurance Company Ltd. Vs. Pranay Sethi and Ors.*, Rs.40,000/- towards loss of consortium and Rs.15,000/- each for loss to estate and funeral expenses, are added in lieu of the non-pecuniary damages awarded by the tribunal. This would mean reduction in the award by Rs.7,500/-. The award is, thus, reduced to [Rs.7,17,500/- (-) Rs.7,500/-] Rs.7,10,000/-, (Rupees Seven Lakh and ten thousand only). It shall carry interest as levied by the tribunal.

5. There being no justification for such inclusion, the directions for payment of counsel's fee and out of pocket expenses are set aside.

6. By order dated 27.09.2012, the insurance company had been directed to deposit fifty percent (50%) of the award amount with proportionate interest with the Registrar General and by order dated 11.02.2016, the deposited amount was released to the claimants. The insurance company is directed to satisfy the award by requisite deposit of the balance with the tribunal within 30 days making it available to be released to the claimants.

7. The statutory amount shall be refunded to the insurer after proof is shown of the award having been satisfied.

8. The appeal is disposed of in above terms.

R.K.GAUBA, J.

DECEMBER 01, 2017
yg