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

Decided on: 07th July, 2017

\+ MAC APPEAL 554/2017 and CM No.23507/2017

RELIANCE GENERAL INSURANCE COMPANY LTD ..... Appellant

Through: Ms. Prerna Mehta, Advocate

Versus

SUBHASH VERMA & ORS ..... Respondents

Through

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

JUDGMENT (ORAL)

1. The insurance company is in appeal seeking to assail the judgment dated 19.04.2017 of the Motor Accident Claims Tribunal in accident claim case of the first to third respondents (claimants), it having been registered initially as case no.164/11 (new MACT case no.477652/16) whereby liability has been fastened upon it to pay the compensation thereby awarded.

2. The two short issues raised concern the levy of interest.

3. The Tribunal has directed the insurance company to pay the awarded compensation within a period of 30 days with interest at the rate of 9% p.a. from the date of filing of the detailed accident report (DAR) i.e. 25.02.2011. It further directed that in case of delay, the

insurance company would be liable to pay interest at the rate of 12% p.a. "for the period of delay".

4. The insurance company contends with reference to *Tamil Nadu State Transport Corporation Ltd. Vs. S. Rajapriya and Ors., (2005) 2 BLJA 1322 (SC)* and another decision of the Supreme Court dated 28.02.2017 in *Chikkamma and Anr. Vs. Parvathamma and Anr. in Civil Appeal No.3409/2017* that only the prevailing banking interest rates should have been invoked and, therefore, the levy of 9% p.a. is excessive.

5. The view taken in the cases cited at bar was in the facts and circumstances of those cases. It is clear even from the said judgments that the question of levy and rate of interest is a matter of discretion of the judicial forum. It will not be proper for this court to interfere in the discretion which has been judicially exercised by the tribunal in the present case.

6. The other issue concerns the enhanced rate of interest at 12% p.a. The insurance company relies on *National Insurance Co. Ltd. Vs. Keshav Bahadur and Ors. 2004(2) SCC 370*.

7. Having gone through the said judgment, it is clear that the court disapproved of levy of "*retrospective enhancement for default in payment of compensation*". In the phraseology used by the tribunal in enforcing a higher rate of interest at 12% p.a. in the case at hand, it is clear that the burden emanating therefrom would be prospective and not retrospective.

8. It is not correct on the part of the insurance company to contend that since it had the remedy of appeal available within 90 days, such

enhanced liability and direction for deposit within thirty days was improper. Reference only needs to be made to the provision contained in Section 168(3) of the Motor Vehicles Act wherein the tribunal was justified and within its jurisdiction to call upon the insurer to pay the compensation awarded within thirty days of the pronouncement of the award.

9. The appeal is, thus, dismissed in *liminie*. The pending application also stands dismissed.

R.K.GAUBA, J.

JULY 07, 2017
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