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

Decided on: 13th October, 2017

\+ MAC.APP. 899/2017

UNION OF INDIA & ANR ..... Appellants

Through: Mr. Vikram Jetly, CGSC

versus

POONAM & ORS ..... Respondents

Through: Mr. Anshuman Bal, Adv. for R-1 to 5

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

JUDGMENT (ORAL)

Caveat 887/2017

1. Since the learned counsel for the caveators has entered appearance, the caveat stands discharged.

MAC.APP. 899/2017 and CM 36856/2017

2. On the accident claim case (suit no.250/2014) of first to fifth respondents (collectively, the claimants) instituted on 18.07.2014 seeking compensation on account of death of Krishan Kumar in a motor vehicular accident that occurred on 25.03.2014 due to the negligent driving of a truck bearing registration no.PB-08-AK-7693 of the appellants, the Motor Accident Claims Tribunal (Tribunal), by its judgment dated 08.06.2017, has returned a finding to the effect that the said vehicle was driven by the sixth respondent, an employee of

the appellants, in a negligent manner. The tribunal awarded compensation in the total sum of Rs.86,48,300/- and directed the same to be paid by the appellants to the claimants with interest at the rate of 9% p.a. from the date of filing of the detailed accident report (DAR) i.e. 18.07.2014.

3. One of the contentions urged before the tribunal was that after the death, the first respondent (widow) had been given employment on compassionate grounds by a Government department where the deceased was working. The tribunal rejected this contention declining to give any relief on such account to the appellants.

4. By the appeal at hand, the said view is sought to be questioned. The appellants also submit that the rate of interest is excessive and it should have been restricted to 7.5%, placing reliance in this regard on the decisions of the Supreme Court in *Kaushnuma Begum & Ors. Vs. New India Assurance Co. Ltd. and Ors., (2001) 2 SCC 9, Kamlesh Kaur and Ors. Vs. Rajinder Kumar & Ors., Civil Appeal no.10822/2017 arising out of SLP (C) 12562/2017.*

5. The claimants have appeared on the advance notice through counsel and both sides have been heard.

6. The above noted first contention must be rejected with reference to the decision of the Supreme Court in *National Insurance Company Ltd. Vs. Rekhaben and Ors., 2017 (5) SC 601* wherein, while repelling similar plea, the Supreme Court observed thus :-

> *"19. ...The source from which compensation on account of the accident is claimed and the source from which the compassionate employment is offered, are completely separate and there is no co-relation between these two*

sources. Since the tort feasor has not offered the compassionate appointment, we are of the view that an amount which a claimant earns by his labour or by offering his services, whether by reason of compassionate appointment or otherwise is not liable to be deducted from the compensation which the claimant is entitled to receive from a tort feasor under the Act. In such a situation, we are of the view that the financial benefit of the compassionate employment is not liable to be deducted at all from the compensation amount which is liable to be paid either by the owner / the driver of the offending vehicle or the insurer.

7. This court has also taken similar view and, for this, reference may be made to the judgment dated 12.09.2017 in *MACA 788/2017, U.P. State Road Transport Corporation Vs. Kamla Devi & Ors*. wherein this court held as under :-

> *"6. The counsel for the appellant then submitted that the wife of the deceased had received terminal benefits as was conceded by Raj Kumar Sharma (PW-2), a clerk from the Establishment Department of UPSRTC who was examined at the instance of the claimants to prove the salary and allowances. She, on being asked, however, fairly conceded that the witness from the appellant's office was not called upon to elaborate as to what terminal benefits he was referring to nor was there any effort on the part of the appellant to bring on record any detailed information either on its own or by claimants being called upon to do so. She, however, explained that the son of the deceased / one of the claimants had been given appointment on compassionate basis. Such appointment, if that were the terminal benefits, cannot be a ground for reduction from the compensation that has been determined as per the settled law on the subject. The son of the deceased would have been appointed on compassionate ground,*

his father having died in harness. He would be receiving salary for the services rendered. Such salary earned by him for the services rendered cannot be treated as compensation for the death of his father."

6. As regards the rate of interest, this court by judgment dated 22.02.2016 in *MACA 165/2011, Oriental Insurance Co. Ltd. Vs. Sangeeta Devi & Ors.*, has ruled thus :

> *"26. There is no reason why the awarded compensation should carry interest only at 7.5% per annum. It has been consistent view of Supreme Court in a series of cases that such award shall carry interest at 9% per annum. [Kaushnuma Begum vs New India Assurance Co. Ltd. (2001) 2 SCC 9; Supe Dei vs National Insurance Co. Ltd. (2009) 4 SCC 513; Municipal Corporation of Delhi, Delhi vs Association of Victims of Uphaar Tragedy and Ors. (2011) 14 SCC 481; Basappa vs T. Ramesh (2014) 10 SCC 789; Syed Sadiq etc. vs Divisional Manager, United India Ins. Company (2014) 2 SCC 735; Surti Gupta vs United India Insurance Company and Ors. 2015 (3) SCALE 795; Kumari Kiran vs Sajjan Singh (2015) 1 SCC 539]. Thus, the directions of the impugned award are modified to enhance the rate of interest to nine percent (9%) per annum."*

7. In *Kaushnuma Begum* (supra), the rate of interest levied was 9% p.a.. It is not clear from the copy of the order in *Kamlesh Kaur & Ors.* (supra) as to the date on which the accident involved in that matter had occurred giving rise to the cause of action.

8. In above circumstances, both the contentions raised are found devoid of substance.

9. The appeal is dismissed in *limine*. The pending application is rendered infructuous and also dismissed.

10. The appellants are directed to satisfy the award by requisite deposit with the tribunal forthwith.

11. The statutory amount deposited by the appellants stands forfeited as costs in favour of the Delhi High Court Legal Services Committee.

R.K.GAUBA, J.

OCTOBER 13, 2017
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