

\$~11

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

%

Date of Decision: 06th March, 2018

+ **MAC.APP. 746/2017**

THE NEW INDIA ASSURANCE CO LTD Appellant
Through: **Mr. K.K. Bhat, Advocate**

versus

J.C SHARMA & ANR Respondents
Through: **Mr. S.C. Jain, Advocate**

CORAM:
HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

1. The appellant has challenged the award of the Claims Tribunal whereby compensation of Rs.2,69,608/- has been awarded to respondents No.1 and 2.
2. The accident dated 29th March, 1986 resulted in the death of Ashok Kumar. The deceased was aged 25 years at the time of the accident and was survived by his father and sister who filed an application for compensation before the Claims Tribunal.
3. Learned counsel for the appellant urged at the time of the hearing that the legal liability of the appellant in respect of the accident was limited to Rs.1,50,000/- by the Motor Vehicles Act, 1939 and the Claims Tribunal erred in awarding the compensation beyond the statutory limit of the appellant.

4. The Claims Tribunal rejected the plea of the appellant on the ground that the liability of Rs.1,50,000/- has not been mentioned on the copy of the insurance policy. The Claims Tribunal also rejected the evidence led by the respondents' witnesses.

5. The provisions of Motor Vehicles Act, 1939 as applicable on the date of the accident have been perused and this Court is satisfied that the liability of the appellant was limited to Rs.1,50,000/- at the time of the accident.

6. Learned counsel for the respondents submits that the Claims Tribunal has awarded the interest from the date of filing of the claim petition i.e. 30th October, 1986 upto realisation. It is submitted that the interest should not be awarded for the period 25th January, 2011 to 04th February, 2014 when the petition was restored after being dismissed for non-prosecution on 25th January, 2011.

7. Learned counsel for respondents No.1 and 2 submits that the application of respondents No.1 and 2 for restoration was filed after the dismissal of the petition but the application remained pending for service on the driver and LRs of the owner and the transfer of the case from one Tribunal to the other. This Court is of the view that respondents No.1 and 2 are entitled to interest for the entire period w.e.f. 30th October, 1986 including the period of 25th January, 2011 to 04th February, 2014.

8. The appeal is partly allowed to the extent that the appellant's liability is held to be limited to Rs.1,50,000/- along with interest @ 9% from the date of filing of the claim petition i.e. 30th October, 1986 till realisation. The appellant has already deposited some amount in terms of the order dated 22nd August, 2017 which has been released by the Claims Tribunal to respondents No.1 and 2. The balance amount be deposited by the appellant

with the Claims Tribunal within four weeks and the same be released to respondent No.1.

9. Copy of this order be given *dasti* to counsels for the parties under signatures of the Court Master.

MARCH 06, 2018
rsk

J.R. MIDHA, J.

