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

% ***Reserved on: 09.09.2022***
***Pronounced on: 24.05.2023***

\+ MAC.APP. 154/2022

IFFCO TOKIO GENERAL INSURANCE COMPANY LIMITED
..... Appellant

Through: Mr. Sameer Nandwani, Advocate.

Versus

UMA DEVI & ORS. ..... Respondents

Through: Mr. Anshuman Bal, Advocate for R-1 and 2.

**CORAM:**
**HON'BLE MR. JUSTICE RAJNISH BHATNAGAR**

**<u>RAJNISH BHATNAGAR, J</u>**

**<u>MAC.APP. 154/2022 and CM APPL. 25238/2022</u>**

1. The appellant has preferred the present appeal under Section 173 of MV Act with the following prayers:

> *"a) This Hon'ble Court may please be gracious enough to set aside the order dated 23.03.2022 passed in MACT NO. 57244/16 by Sh. Lovleen, LD PO MACT, Tis Hazari Courts on the grounds stated in the appeal.*
> *b) Cost of the appeal may please be also awarded.*
> *c) Any other relief which this Hon 'ble Court may deem fit and proper under the facts and circumstances of the case be also awarded."*

2. It is submitted by learned counsel for the appellant that learned

Tribunal failed to appreciate the provision under section 164 of the MV Act 1988, being in force at the time of passing the order which clearly states that the award shall be Rs. 5,00,000/- in case of death. It is further submitted that learned Tribunal awarded additional amount of Rs.1,21,000/- towards compensation without there being any provision.

3. On the other hand, it is submitted by learned counsel for respondent nos. 1 and 2 that learned Tribunal has correctly awarded the compensation and there is no error in the impugned judgement. It is further submitted that learned Tribunal while passing the award duly considered the Second Schedule annexed to Motor Vehicle Act and has granted only Rs. 5,00,000/-as the compensation amount. It is further submitted that compensation under the Heads of Loss of Consortium, Funeral Expense and Loss of Estate is awarded as per the judgement of the Hon'ble Supreme Court passed in ***National Insurance Co. Ltd. vs. Pranay Sethi & ors., 2017 (16) SCC 680***. It is further submitted that learned Tribunal instead of awarding interest @ 9% per annum has awarded interest @ 6% per annum which is on the lower side.

4. I have heard the learned counsel for the appellant as well as learned counsel appearing for respondent nos. 1 and 2 and have perused the records of the case.

5. In the instant case, for proper adjudication, it is necessary to look into Section 164 (1) of The Motor Vehicles (Amendment) Act,

2019 which reads as follows:-

> *"164. (1) Notwithstanding anything contained in this Act or in any other law for the time being in force or instrument having the force of law, the owner of the motor vehicle or the authorised insurer shall be liable to pay in the case of death or grievous hurt due to any accident arising out of the use of motor vehicle, a compensation, of a sum of five lakh rupees in case of death or of two and a half lakh rupees in case of grievous hurt to the legal heirs or the victim, as the case may be."*

A plain reading of Section 164 (1) of The Motor Vehicles (Amendment) Act, 2019 clearly reveals the aim of the legislature while passing this amendment that a consolidated sum of Rs. 5,00,000/- is to be awarded in case of death.

6. As far as the contention of learned counsel appearing for respondent nos. 1 and 2, with regard to the interest rate being 6% per annum is concerned, the same is hereby enhanced to 7.5% per annum from the date of filing of the petition before the Tribunal, i.e., 10.02.2015 till the date of realization as per the established principles of law held by the Hon'ble Supreme Court in ***S. Chandrasekharan & Ors. vs. M. Dinakar & Anr., Civil Appeal Nos. 4688-4689 Of 2022 (Arising out of SLP (C) Nos. 8119¬-8120 of 2019) and National Insurance Company Ltd. vs. Mannat Johal & Ors., Civil Appeal Nos.4079-4081 Of 2019 (Arising out of SLP (C) Nos. 742-744 Of 2019).***

**7.** Keeping in view the mandate of Section 164 (1) of The Motor Vehicles (Amendment) Act, 2019 where the legislature is clear that Rs. 5,00,000/- is to be awarded in case of death, the appeal is allowed and compensation amount is revised to Rs. 5,00,000/- along with the interest @ 7.5% per annum from the date of filing of the petition before the Tribunal, i.e., 10.02.2015 till the date of realization.

8. Statutory amount of Rs. 25,000/- deposited by the appellant – Insurance Company be refunded to the appellant.

9. Accordingly, the appeal stands disposed of along with pending applications (if any) with above said modification.

10. The Tribunal shall re-compute the compensation amount after considering the above modifications, thereafter the same shall be disbursed to the claimants as per the scheme of disbursal mentioned therein.

11. A copy of this order be sent to the concerned Tribunal for compliance.

12. The matter shall be listed before the concerned Tribunal on 7th June, 2023 for the purpose of re-computation of awarded amount.

**RAJNISH BHATNAGAR, J**

**MAY 24, 2023/ib**