



2023:DHC:8905



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

Date of decision: 11.12.2023

+ **MAC.APP. 550/2023**

ORIENTAL INSURANCE CO LTD Appellant
Through: Mr.Pradeep Gaur, Adv.

versus

SATISH CHANDRA AND ORS Respondents
Through: Nemo

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA

NAVIN CHAWLA, J. (ORAL)

CM APPL. 63781/2023 (Exemption)

1. Allowed, subject to all just exceptions.

CM APPL. 63782/2023

2. For the reasons stated in the application, the delay of 11 days in filing the appeal stands condoned.

3. The application stands disposed of

MAC.APP. 550/2023 & CM APPL. 63780/2023

4. The appellant challenges the Award dated 25.08.2023 (hereinafter referred to as the 'Impugned Award') passed by the learned Motor Accidents Claims Tribunal (South-East District), Saket Courts, New Delhi (hereinafter referred to as the 'Tribunal) in MACT NO. 889/2017, titled as *Satish Chandra & Ors. vs Sabir Khan &*



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Ors., awarding compensation of Rs.58,01,688/- in favour of the claimants, that is, the respondent nos.1 to 3 herein, along with interest at the rate of 9% per annum.

5. The only grievance of the appellant against the Impugned Award is on the rate of interest which has been awarded by the Impugned Award.

6. The learned counsel for the appellant submits that the accident in question had taken place on 14.10.2016. He submits that the prevalent rate of interest, as notified by the Reserve Bank of India during the relevant period, was between 6.50% and 6.90% per annum. He submits that the learned Tribunal has, therefore, erred in awarding 9% per annum rate of interest in favour of the respondent nos.1 to 3. He submits that the learned Tribunal erred in not taking into consideration the latest judgments passed by the Supreme Court in the case of *Vimla Devi v. National Insurance Co. Ltd.*, (2019) 2 SCC 186; *Inayathrajasab Attar v. Shantaugva & Ors vs U.P. State Road Transport Corporation*, (Civil Appeal No.2526/2016, vide order dated 19/02/2020); *Abati Bezbaruah vs Deputy Director General Geological Survey of India*, (2003) 3 SCC 148; *Tamil Nadu State Road Transport Corporation Ltd. Vs S. Raja Priya*, (2005) 6 SCC 236; *R.K. Malik v. Kiran Pal*, (2009) 14 SCC 1; and *Benson George v. Reliance General Insurance Co. Ltd.*, (2022) 13 SCC 142. The learned counsel for the appellant submits that all the above referred judgments of the Supreme Court were quoted and relied upon by this Court in the case of *National Insurance Co. Ltd vs Yad Ram & Ors.*, 2023 SCC OnLine Del 1849, wherein this Court, after considering the



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submissions, reduced the rate of interest from 9% per annum to 7.5% per annum, considering the then prevailing rate of interest. He further submits that an additional burden of Rs.10.15 lakhs has been saddled on the appellant due to the enhanced rate of interest.

7. I have considered the submission made by the learned counsel for the appellant.

8. In the present case, the learned Tribunal, while determining the rate of interest, relied upon the judgment of this Court in ***Ram Charan & Ors. v. The New India Assurance Co. Ltd.***, 2022:DHC:4590 and of the Supreme Court in ***Erudhaya Priya v. State Express Transport Corporation Ltd.***, 2020 SCC OnLine SC 601, and held that the interest at the rate of 9% per annum is deemed fit and appropriate to be awarded to the Claimants.

9. Section 171 of the Motor Vehicles Act, 1988 (hereinafter referred to as the 'Act') empowers the Motor Accidents Claims Tribunal to direct the payment of simple interest on the compensation determined, at such rate and from such date, not earlier than the date of making the claim, as it may specify in this behalf. A discretion is therefore, vested with the learned Tribunal to award the rate of interest. It need not completely match with the rate of interest as may be notified by the Reserve Bank of India. There are other circumstances as well which the learned Tribunal has to take into account.

10. This Court in ***Yad Ram*** (Supra), after considering the judgments referred to by the learned counsel for the appellant, has held as under:-

“24. From a perusal of the aforesaid, it is



evident that even though Section 171 gives a discretion to the learned Tribunal to grant interest on compensation, unlike Section 34 of the Code of Civil Procedure which prescribes that interest, except in commercial matters, would not exceed 6% p.a., neither any fixed rate of interest has been prescribed nor has any ceiling on the rate at which interest can be granted by the learned Tribunal under the MV Act has been provided. It is, therefore, always incumbent for the learned Tribunal to award interest at a rate which is deemed appropriate in the facts of each case; the rate must however be just and fair. The learned Tribunal has to keep in mind that interest is awarded not because of any contractual obligation but because of the delay in the claimants receiving the compensation which they should receive at the time of the accident itself. Since the time gap between the accident and the passing of an award may vary from case to case, Section 171 does not prescribe any fixed rate of interest and clothes the Tribunal with a discretion to award interest by taking into account factors like inflation, the rate of interest as prescribed by the Reserve Bank of India at the time of the accident as also the at the time of the passing of the award, the duration of the pendency of the claim petition, the nature of injuries, the nature of the urgency of the requirement of the claimants to receive compensation. The learned Tribunal may also take into account as to whether the claimants in order to meet the expenses for medical treatment of the injuries resulting from the accident were required to borrow from financial institutions. Another important factor would be as to what proportion of the awarded compensation pertains to damages already suffered such as medical charges, loss of earnings and out of pocket expenses vis-à-vis payments made towards loss of future earnings and loss of dependency, which in fact is being paid in advance. It cannot, therefore, be urged that because interest was granted at



@12% p.a. by the Apex Court in respect of an award of a particular year, interest must necessarily be granted at the same rate in respect of all awards in the same year. Similarly, it cannot be said that because interest @ 6% p.a. was granted in an award pertaining to another year, the said rate must be followed in all awards of the same year. In every case, all surrounding circumstances have to be considered by the Court before awarding interest and infact even a slight change in the circumstances of two claim petitions in respect of two contemporaneous accidents in itself may be a ground to award interest at different rates in the two cases."

11. The Court has therefore, held that the rate of interest notified by the Reserve Bank of India is only one of the considerations that must weigh with the learned Tribunal while determining the rate of interest; the other considerations being the duration and pendency of the Claim Petition, and other surrounding circumstances, which would cumulatively make the award of rate of interest to appear as reasonable.

12. In the present case, the accident had taken place on 14.10.2016, whereas the Award has been passed at least six years thereafter, on 25.08.2023. In my view, the rate of interest awarded by the learned Tribunal cannot be said to be unreasonable so as to warrant any interference from this Court. Even if the plea of the appellant is accepted, it would lead to an additional burden of only about Rs. 7.30 lakhs on the appellant. The Respondents/Claimants have already suffered an agonising wait of almost seven years in receiving the compensation. I do not see any reason to prolong this agony for them



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and make them suffer additional costs and time in defending this appeal only on the perceived unreasonableness of the rate of interest awarded by the learned Tribunal.

13. Accordingly, the appeal and the pending application are dismissed.

14. The appellant shall stand exempted from depositing the statutory amount.

15. The appellant shall however, deposit the awarded amount along with interest as awarded by the learned Tribunal, with the learned Tribunal within a period of four weeks from today. The amount so deposited shall be released in favour of the claimants, that is, the respondent nos.1 to 3 herein, in accordance with the schedule of disbursement as prescribed in the Impugned Award.

NAVIN CHAWLA, J

DECEMBER 11, 2023/Arya/ss

Click here to check corrigendum, if any