2024:DHC:2854

* IN THE HIGH COURT OF DELHI AT NEW DELHI

% **Judgment reserved on : 26 February 2024**
Judgment pronounced on : 09 April 2024

\+ MAC. APP. 73/2024 & CM APPL. 5849/2024

THE ORIENTAL INSURANCE COMPANY LTD. ...Appellant
Through: Mr. Abhishek Kumar, Adv.

versus

HEMLATA & ORS. .....Respondents
Through: Mr. Pankaj Gupta, Adv.

CORAM:
HON'BLE MR. JUSTICE DHARMESH SHARMA

J U D G M E N T

1. This judgment shall decide the present appeal preferred by the appellant/Oriental Insurance Company Ltd., under Section 173 of the Motor Vehicles Act, 1988[1], assailing the Impugned order dated 07.07.2023 passed by the learned Motor Accident Claims Tribunal, South East District, Saket Court, Delhi (hereinafter referred to as 'learned Tribunal') in MACT No. 790/2018[2], titled as '*Hemlata & Ors. v. Samita Devi & Ors.*', and it is assailed only to the extent of learned. Tribunal granting interest on compensation in favour of the claimants @ 9% per annum from the date of filing of the claim petition till its realisation.

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[1] MV Act
[2] Claim Petition

FACTUAL BACKGROUND:

2. Shorn of unnecessary details, the claimants are the widow, two married daughters and son of the deceased Prahalad Singh, who died in a motor accident involving bus bearing registration No. UK-12-PA-0159[3] that was being driven by Veer Singh, who also died in the same accident.

3. Suffice to state that the deceased driver was held to be guilty of rash and negligent driving of the offending vehicle, which resulted in the death of the deceased Sh. Prahalad Singh.

4. As regards the issue of entitlement to compensation, the learned Tribunal rejected the contention of Respondent No.3/ insurance company (appellant herein) that there is no loss of financial dependency to the claimants in the present case since the son of the deceased (Respondent No. 4 herein) got the same job on compassionate ground in the same department in place of the deceased. On the contrary, learned Tribunal held that the financial benefit of compassionate employment is not liable to be deducted from the compensation amount in the present case.

5. At this stage, it would be apposite to note the decision of the learned Tribunal with regard to ascertaining the rate of interest on compensation amount, as contained in Para 109 of the award. The same read as under:

> "109. Having regard to the prevailing rate of interest and the judgments of Hon'ble Supreme Court of India, including in the case of **Erudhaya Priya vs State Express Transport** decided on 27 July, 2020, Civil Appeal Nos. 2811-2812 OF 2020 [Arising out

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[3] Offending Vehicle

of SLP (C) Nos.8495-8496 of 2018], which is three Judges Bench judgment of Hon'ble Supreme Court, such interest @ 9% per annum is deemed fit and accordingly granted in the present case."

6. With respect to liability, the ld. Tribunal held that the compensation shall be payable in the first instance by the Respondent No. 3/insurance company (appellant herein), but granted it liberty to recover the same from the Respondent No.1/driver and Respondent No.2/ owner of the offending vehicle.

7. Having given my thoughtful consideration to the submissions advanced by the learned counsels for the parties at the Bar and on perusal of the record of the present appeal, this Court finds that at the outset, the issue raised by the appellant/insurance company is no longer *res integra.* This Court in the case of **National Insurance Company Ltd. v. Yad Ram**[4] had an occasion to consider the issue of grant of interest in terms of Section 141 of the MV Act and the said decision was followed by this Court in another case titled **Oriental Insurance Co. Ltd. v. Sohan Lal**[5] wherein it was held as under:-

> "7. This affirms the view of the learned Single Judge that there is no fixed rate of interest on compensation that can be applied under the M.V. Act and the grant of appropriate rate of interest shall be governed by several factors which are to be determined on a case-to- case basis. In the instant case, the motor vehicle accident had occurred on 01.07.2018 and the claim petition was filed on 30.08.2018. The award was passed on 03.07.2023, i.e., within 05 years from date of filing of the claim petition. Considering that due to the Covid-19 pandemic that brought the world to a standstill, there has been an evident delay in adjudication. It is, thus a fit case where the rate of interest should be brought down to 7.5% p.a. The award of interest @7.5% p.a. along-with the awarded compensation, would also commensurate with the rate of interests,

[4] 2023 SCC OnLine Del 1849
[5] 2024 SCC OnLine Del 1966

which are being given by the nationalised banks on Fixed Deposit Receipts as per Reserve Bank of India guidelines.

8. In view of the foregoing discussion, the present appeal is allowed and it is directed that the respondents/claimants shall be entitled to compensation awarded by the learned Tribunal with modified interest @ 7.5% p.a. from the date of filing of the claim petition till realisation. The amount of compensation be deposited with the learned Tribunal within four weeks from today, failing which, the appellant/insurance company shall be liable to pay the penal interest @ 12% p.a. from the date of this decision till realisation."

8. In view of the foregoing discussion, reverting to the instant matter, the accident in question occurred on 01.07.2018 and claim petition was filed on 13.08.2018, which was decided vide impugned judgment-cum-award dated 07.07.2023 within five years but we need to exclude two years' period on account of COVID-19 pandemic and considering that there are no extra ordinary or exceptional circumstances so as to justify award of interest @ 9%, hence, the impugned judgment-cum-award dated 07.07.2023 is hereby modified only to the effect that the claimants shall be entitled to interest @ 7.5% per annum from the date of filing of the petition till realization.

DHARMESH SHARMA, J.

APRIL 09, 2024

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