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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 377/2025**

THE ORIENTAL INSURANCE COMPANY
LIMITED

.....Petitioner

Through: Mr. Ravi Sabharwal, Adv.

versus

SMT BABITA KUMARI
& ORS.

.....Respondents

Through:

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER
24.02.2025

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CM APPL. 11126/2025 (for exemption)

1. Exemptions allowed, subject to all just exceptions.
2. The application stands disposed of.

CM(M) 377/2025 & CM APPL. 11125/2025

3. The petitioner challenges the orders dated 16.05.2024, 17.01.2025 and 29.01.2025 passed by the learned Presiding Officer, Motor Accident Claims Tribunal, Tis Hazari Court in MACT No. 528/2022.
4. The petitioner/Insurance Company has challenged the continuance of the proceedings before the Motor Accident Claims Tribunal.
5. The learned counsel for the petitioner submits that the accident occurred on 30.11.2020 whereas the claim petition was filed belatedly on 08.06.2022 after more than one year and six months.
6. He submits that in view of the amended Section 166(3) of

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the Motor Vehicles Act, 1988 ('**MV Act**') which came into force on 01.04.2022, no petition can be entertained after a period of six months of the occurrence of the incident.

7. The *vires* of the amended Section 166(3) of the MV Act is pending consideration before the Hon'ble Supreme Court.

8. It is pertinent to note that in the present case the accident occurred on 30.11.2020. However, the amended Section 166(3) came into force much later by way of notification dated 01.04.2022. It is well settled that all amendments that affects the rights of the litigants or aims to take away certain rights are prospective in nature unless otherwise provided.

9. The Hon'ble Apex Court in the case of ***State of Punjab and Others v. Bhajan Kaur and Others* : (2008) 12 SCC 112** while dealing with the amended Section 140 of the Motor Vehicles Act, 1988 and its applicability to the pending litigations observed as reproduced:

9. A statute is presumed to be prospective unless held to be retrospective, either expressly or by necessary implication. A substantive law is presumed to be prospective. It is one of the facets of the rule of law.

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13. No reason has been assigned as to why the 1988 Act should be held to be retrospective in character. The rights and liabilities of the parties are determined when cause of action for filing the claim petition arises. As indicated hereinbefore, the liability under the Act is a statutory liability. The liability could, thus, be made retrospective only by reason of a statute or statutory rules. It was required to be so stated expressly by Parliament. Applying the principles of interpretation of statute, the 1988 Act cannot be given retrospective effect, more particularly, when it came into force on or about 1-7-1989.

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16. It is now well-settled that a change in the substantive law, as opposed to adjective law, would not affect the pending litigation unless the legislature has enacted otherwise, either expressly or by necessary implication.

10. In view of the above, I find no merit in the present



petition.

11. The petition is, therefore, dismissed.

AMIT MAHAJAN, J

FEBRUARY 24, 2025