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

\+ **MAC.APP. 149/2025**

INDO & ORS. .....Appellants
Through: Mr. O.P. Gupta, Adv. (through VC)

versus

SARVESH PANDEY & ORS. .....Respondent
Through: Mr. Samir Nandwani and Ms. Heeba Ansari, Advs. for R-3.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

O R D E R

% **25.02.2025**

CM APPL. 11384/2025 *(exemption from filing original / certified copies of the annexures / documents)*

1. Exemption allowed, subject to all just exceptions.

2. The application stands disposed of.

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3. By the present appeal, the appellants have challenged the award dated 30.11.2024 (hereafter '**impugned award**'), passed by the learned Motor Accident Claims Tribunal, in MACT No. 77172/2016.

4. The brief facts of the case are that on 08.09.2014, at around 8 PM, when the victim unloaded his truck and was going to take the charges of unloading the goods from the owner, Respondent No.2 reversed the offending vehicle (a truck) at a high speed. The offending vehicle first hit the wall of K.K. Kabariwala and then struck the electricity pole, due to which, the

electricity wire broke and fell down upon the victim. The victim was burnt by the same and died on the spot. The victim was survived by his wife, three daughters, one son and his parents, who preferred the claim petition before the learned Tribunal.

5. The appellants seek enhancement of the awarded compensation on two grounds.

6. Firstly, it is contended that a sum of ₹125/- per day was not included by the learned Tribunal as part of the income of the victim, even though, the employer of the victim had categorically deposed about the said aspect.

7. Undisputedly, the learned Tribunal has relied upon the testimony of the employer and has considered the income of the victim as ₹8,500/- per month. The employer had further deposed that the victim was also being paid a sum of ₹125/- per day as food allowance.

8. In the opinion of this Court, the said amount has rightly not been included in computing the income of the victim. The food allowance received by the victim was in the nature of personal expense and the same cannot be considered for the purpose of calculating the loss of dependency.

9. Secondly, it is the grievance of the appellants that a higher rate of interest should have been awarded.

10. The learned Tribunal, in the present case, had awarded the compensation along with interest at the rate of 7% per annum from the date of filing of the claim petition till realization.

11. In regard to the interest being awarded, undisputably, no fixed rate of interest has been prescribed in the statute. The same depends on the discretion of the Court. This Court notes that different rates of interest are awarded by the learned Tribunal in

different cases. In some cases, this Court has come across that an interest at the rate of 9% per annum has been awarded by the learned Tribunal.

12. In the case of ***Savita Devi & Ors. V. SBI General Insurance Company Ltd. & Ors.*** **: CIVIL APPEAL No (s). 10053-10054 of 2024**, where the accident had taken place in the year 2015, the Hon'ble Apex Court had enhanced the awarded rate of interest from 6% per annum to 9% per annum in the interest of justice of determining just compensation based on fairness, reasonableness and equitability. Reliance was placed on ***Malarvizhi v. United India Insurance Co. Ltd.*** **: (2020) 4 SCC 228** where the rate of interest was also enhanced from 7.5% per annum to 9% per annum.

13. In view of the above, this Court this considers it apposite to enhance the simple rate of interest of 7% per annum to 9% per annum from the date of institution of the claim petition till realisation in the interest of justice.

14. The present appeal is allowed to the aforesaid extent.

AMIT MAHAJAN, J

FEBRUARY 25, 2025
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