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

\+ **<u>MAC.APP. 161/2025</u>**

UNITED INDIA INSURANCE COMPANY LTD. .....Appellant

Through: Mr. Pradeep Gaur, Mr. Amit Gaur and Ms. Sweta Sinha, Advs.

versus

SMT. MITHLESH KUMARI AND ORS .....Respondents

Through:

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

<u>O R D E R</u>

% **03.03.2025**

<u>CM APPL. 12455/2025</u> <u>*(exemption from filing certified copy of the award)*</u>

1. Exemption allowed, subject to all just exceptions.

2. The application stands disposed of.

<u>CM APPL. 12456/2025</u> <u>*(condonation of delay of 32 days in filing the present appeal)*</u>

3. For the reasons mentioned in the application, the same is allowed and the delay in filing the present appeal is condoned.

4. The application stands disposed of.

<u>MAC.APP. 161/2025 & CM APPL. 12454/2025</u> <u>*(stay)*</u>

5. By the present appeal, appellant / Insurance Company challenges the award dated 07.10.2024 (hereafter '**impugned award**'), passed by the learned Motor Accident Claims Tribunal, in MACT No. 185/2017, on two grounds :

i) Firstly, it contended that the victim, at the time of accident, was not gainfully employed and therefore, the learned Tribunal erred in presuming the income of

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the victim on the basis of the last drawn salary.

ii) Secondly, it is contended that the interest at the rate of 9% has been awarded on a higher side.

6. The learned counsel for the appellant submits that accident took place on 08.01.2017.

7. He submits that the victim was admittedly pursuing Post-Graduation Programme in Management in the years 2016-18.

8. He submits that the victim, prior to the accident, was working as a Senior Manager, Ericsson India Global Services Pvt. Ltd. and was earning a monthly gross salary of ₹40,536/- and the same could not have been made the basis for calculating the notional income for calculating the loss of dependency.

9. He further submits that the interest at the rate of 6.75% should have been awarded which was the interest prevalent on FDR at the time of accident.

10. I find no merit in the argument advanced by the learned counsel for the appellant.

11. It cannot be disputed that the victim had good future prospects. The victim, prior to pursuing the Post-Graduation Programme in Management, was working as 'Solution Integrator' earning a monthly salary of ₹40,536/-.

12. It is not disputed by the appellant that the victim resigned on 17.06.2016 to pursue Post-Graduation Programme in Management, which in the opinion of this Court, would have further enhanced the employment prospects of the victim.

13. It, however, can safely be presumed that the victim would have at least been earning the same salary as he was earning prior to completing the Post-Graduation Programme in Management.

14. The learned Tribunal, thus, rightly took a reasonable and

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compassionate view and determined the quantum of compensation on the basis of last drawn salary prior to the victim's death and also considered the loss of future prospects on the basis of ***National Insurance Co. Ltd. v. Pranay Sethi* : (2017) 16 SCC 680**.

15. I find no infirmity in the view taken by the learned Tribunal.

16. Much emphasis has been placed on the award of 9% interest on the compensation amount. It has been contended that the award of interest @9% is exorbitant, and ought to be reduced. The learned counsel for the appellant relies upon the judgments passed by the Hon'ble Supreme Court in the case of ***Vimla Devi & Ors. v. National Insurance Co. Ltd. & Ors.* : (2019) 2 SCC 186** and in the case of ***Inayath Rajasab Attar v. Shantavva* : Civil Appeal No. 2526/2012** decided on 19.02.2020, where the Hon'ble Supreme Court had reduced the rate of interest to @6%. Before delving into the question of adequacy of the rate of interest, it is apposite to look into the provision that deals with the award of interest under the Motor Vehicles Act, 1988 ('**MV Act**'). Section 171 of the MV Act reads as reproduced:

> *"171. Award of interest where any claim is allowed.— Where any Claims Tribunal allows a claim for compensation made under this Act, such Tribunal may direct that in addition to the amount of compensation simple interest shall also be paid at such rate and from such date not earlier than the date of making the claim as it may specify in this behalf."*

17. Upon a reading of Section 171 of the MV Act, it is apparent that a fixed rate of interest has not been prescribed in the legislation. A discretion is afforded to the Tribunal to grant, in addition to the amount of compensation, a simple interest on the amount of compensation. The position under the MV Act

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differs from that prescribed under Section 34 of the Code of Civil Procedure, 1908 ('**CPC**') which delineates that in cases other than in commercial transactions, interest would not exceed 6% per annum. However, unlike the rate prescribed under the CPC, neither any floor nor any ceiling rate has been specified under the MV Act.

18. This Court has come across numerous cases where different rates of interests have been awarded in different claim petitions. It is thus safe to say that there exists no uniformity insofar as the rate of interest is concerned. For this reason, it becomes pertinent for this Court to examine the underlying rationale behind the grant of interest.

19. It is not in doubt that the MV Act is a benevolent legislation, and aims to protect the interests of the victims of motor accidents. In such cases, interest on compensation is granted not because there exists a contractual obligation between the parties but on account of the delay caused in obtaining the compensation. Interest is awarded for the time consumed and the distress faced by the claimant during the time when the claimant first approached the tribunal with the claim till such time as is taken in the assessment and award of compensation.

20. The award of interest thus finds its genesis in the forbearance of the claimant who is kept out of the money that he is entitled to at the time of filing of the claim petition. It is thus safe to say that interest under the MV Act forms part of the compensation itself. For this reason, the Hon'ble Apex Court in the case of ***Abati Bezbaruah v. Dy. Director General, Geological Survey of India and Another*** **: (2003) 3 SCC 148** observed that interest can be awarded to the claimant even if the same has

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specifically not been pleaded.

21. In the case of ***Dharampal v. UP State Road Transport Corporation* : (2008) 12 SCC 208**, the Hon'ble Apex Court observed that the change in the economy, and the policy of Reserve Bank of India *qua* the interest rate on fixed deposits is a relevant criterion while considering the rate of interest. Further, in the case of ***Erudhaya Priya v. State Express Transport Corporation Ltd* : 2020 SCC OnLine SC 601**, the Hon'ble Apex Court enhanced the rate of interest from 7.5% to 9% for an accident that took place on 16.08.2011, and the award was passed much later on 20.10.2014.

22. The award of interest, thus, is a matter of judicial discretion, and ought to be awarded while keeping into account the peculiar facts and circumstances of the case. It is not the intention of this Court to suggest that merely because a particular rate of interest is awarded in the peculiar facts of one case, the same has to be followed in all the subsequent cases. The MV Act has bestowed such duty on the Courts to determine the appropriate rate of interest.

23. While this Court does not intend to set a standard for determination of the rate of interest, in the opinion of this Court, the financial constraints faced by the claimants ought to be considered. This Court is of the opinion that if the claimants are constrained to avail a personal loan from a financial institution, they would be required to repay the same with much higher rate of interest. It is common knowledge that personal loans are not given by the banks at any rate below 10% per annum.

24. Consequently, the determination of a rate of interest @9% is a reasonable assessment. While it is true that the claimant

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would be entitled to an interest @6-7%, if the money is put in FDR, however much higher rate of interest would be payable by the claimant if a personal loan is availed on account of financial constraints. The rate of interest @9% per annum is therefore a reasonable average assessment.

25. In the present case, the case was instituted on 17.02.2017, however, the award was passed much later on 07.10.2024. This Court, consequently, does not find any reason to interfere with the rate of interest.

26. I, therefore, find no merit in the present appeal.

27. The present appeal is accordingly dismissed. Pending application(s) also stand disposed of.

AMIT MAHAJAN, J

MARCH 3, 2025
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