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

+ **MAC.APP. 308/2023**

NEW INDIA ASSURANCE CO. LTDAppellant

Through: Mr. Salil Paul with Mr.
Sahil Paul, Advs.

versus

SUDESH & ORS.Respondents

Through: Mr. Robin Ratnakar David
& Mr. Nihar Baijal,
Advs.(DHCLSC) for R-3.
Mr. Gaurav Arora & Mr.
Daood Ahmed, Advs. for
R-4 & R-5.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **05.03.2025**

1. This present appeal is filed challenging the award dated 02.03.2023 passed by the learned Motor Accidents Claims Tribunal (MACT), Tis Hazari Courts, Delhi in MACT No. 56460/2016, granting compensation to the claimants under Section 163A of the Motor Vehicles Act, 1988 ('the Act').
2. The appellant/Insurance Company primarily contends that the amended structured compensation formula introduced by the Notification dated 22.05.2018 under Section 163A of the Act should not have been applied retrospectively to an accident that occurred on 09.06.2014.
3. The short issue that falls for consideration for this Court is whether the Notification revising the structured compensation formula under Section 163A of the Act with effect from 22.05.2018, could be applied retrospectively to an accident that occurred on 09.06.2014.

MAC.APP. 308/2023

Page 1 of 4



4. The learned counsel for the Insurance Company argues that the learned Tribunal wrongly applied the revised structured compensation formula, which was not in effect at the time of the accident and was only notified on 22.05.2018. He states that the amendment would be applied prospectively.

5. He submits that the learned Tribunal's decision contravenes settled law that compensation is to be awarded as per the provisions applicable on the date of the accident, not the date of adjudication. He further submits that the learned Tribunal failed to appreciate the judgments passed by the Hon'ble Apex Court in ***Kerala State Electricity Board v. Valsala K. : (1999) 8 SCC 254***, where it was held that the relevant date for determining rights and liabilities under the Workmen's Compensation Act is the date of the accident and ***Oriental Insurance Co. Ltd. v. Khajuni Devi : (2002) 10 SCC 567***, in which it was reiterated that compensation must be determined based on the law prevailing at the time of the accident.

6. It cannot be ignored that the doctrine of fairness ensures that where a law is enacted for the benefit of community as a whole, even in the absence of a specific provision in the statute, it may be applied retrospectively.

7. The Hon'ble Calcutta High Court in ***Urmila Halder v. New India Assurance Co. Ltd. & Ors. : 2018 SCC OnLine Cal 11751***, while considering the motor accident compensation payable on account of death of the claimant's daughter, held that the enhanced compensation amount payable under the amended Section 163A of the Act would be applicable to all pending cases irrespective of the date of accident.

8. The Hon'ble Calcutta High Court opined that the notification bringing into force amended Section 163A of the Act
MAC.APP. 308/2023

Page 2 of 4



does not expressly or by necessary intendment make it inapplicable to claim applications / appeals which are pending before judicial forums as on that date. The amended sections also make no reference to the dates of accidents.

9. The view taken by the Calcutta High Court has been upheld by the Hon'ble Apex Court in an SLP being SLP No.6260/2019 filed by the New India Assurance Company Ltd. The Hon'ble Apex Court observed that the beneficial legislation would necessarily entail the benefit to be passed on to the claimant in the absence of any specific bar.

10. The appellant placed heavy reliance on ***Kerala State Electricity Board v. Valsala K. (supra)*** and ***Oriental Insurance Co. Ltd. v. Khajuni Devi (supra)*** to argue that compensation should be determined based on the law prevailing at the time of the accident. These judgments were passed by the Hon'ble Apex Court in regard to compensation payable under the Workmen's Compensation Act, which has a different statutory framework than of the Motor Vehicles Act. Further, the Hon'ble Apex Court in the SLP being SLP No.6260/2019 upheld the view taken by the Calcutta High Court in regard to applicability of Section 163A of the Act to all pending claims on the date of amendment. The Hon'ble Apex Court's dismissal of the SLP effectively affirms the retrospective application of the amendment to pending cases. The view taken by the Hon'ble Apex Court in regard to Motor Vehicles Act is binding on this Court.

11. Thus, the reliance placed by the appellant on the above precedents is misplaced, as those judgments do not deal with Section 163A of the Act or the specific notification at issue in the present case.



12. For the reasons stated above, this Court finds that the learned Tribunal correctly applied the revised structured compensation formula under Section 163A of the Act, as there is no explicit bar against its retrospective application.

13. In view of the above, the benefit of the amendment in Section 163A of the MV Act cannot be denied to the appellants.

14. The present appeal is dismissed in the aforesaid terms.

AMIT MAHAJAN, J

MARCH 5, 2025