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

\# **CNR No. DLHC010003172022**

\+ MAC.APP. 7/2023

UNITED INDIA INSURANCE CO LTD .....Appellant

Through: Ms. Shruti Jain, Adv. for Mr. Pankaj Seth, Adv.

versus

SMT NEELAM AND ORS .....Respondents

Through: Mr. Sanjeev Kumar Shrivastava, Adv. for R-1 to 4.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

O R D E R

% 07.10.2026

1. This appeal has been filed by the Insurance Company assailing impugned award dated 17th October 2022 passed by the Motor Accident Claims Tribunal ['***MACT/Tribunal***'], Central District, Tis Hazari Courts in MACT No. 236/2019, awarding compensation of *Rs.84,66,725/-* along with interest @ 8.5% in respect of an accident, which occurred on 03rd November 2018.

2. Yogesh Kumar (hereinafter, '***deceased***') had been riding a motorcycle on the *Wazirabad Flyover* towards *ISBT*, when he was hit by a car bearing registration no. *HR-06T-0440* (hereinafter, '***offending vehicle***'). Deceased was taken to *Sushruta Trauma Centre* and was declared brought dead. FIR No.244/2018 was registered at PS *Timarpur* and resulted in a chargesheet.

3. *Ms. Shruti Jain*, counsel for appellant/Insurance Company, challenges

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the award on various grounds, which are dealt with as under:

(i) Recovery rights had been granted to the Insurance Company, however, *Ms. Jain*, claims that they should have been exonerated, since there was an absence of a valid driving licence. This issue has been considered by the Supreme Court in ***Reliance General Insurance Co. Ltd. v. Om Prakash***, 2026 INSC 767, where the principle of pay and recovery was upheld in case of an invalid driving license on the date of accident. Therefore, this aspect cannot be displaced and has rightly been considered by the MACT.

(ii) *Ms. Jain*, counsel for appellant/Insurance Company, challenged the finding of negligence submitting that it was not proved by cogent evidence. However, the Court has perused the assessment made by MACT in this regard, which has rightly relied upon the testimony of ***PW3*****,** who was an eyewitness and his testimony was considered as credible. In any event, the driver had also been charge-sheeted, which has been considered to be persuasive. Aside from this, documents such as the FIR, chargesheet, site plan, seizure memo, *postmortem* report, Mechanical Inspection Report and the statement of eyewitness recorded under Section 161 of Code of Criminal Procedure, 1973 (*CrPC*) also corroborate the testimony of ***PW3***. Driver/Respondent no.5 did not step into the witness box to contradict any aspect of the manner of collision or explain the circumstances under which the offending vehicle hit the motorcycle of deceased. MACT has, therefore, taken a correct

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view in the matter regarding negligence on the basis of preponderance of probability.

(iii) *Ms. Jain*, raised an issue that personal allowances of deceased should be deducted from the salary, which has been considered by MACT for calculating monthly income. Court has perused the appointment letter issued by *M/s. Ikon Outsourcing Pvt. Ltd.* and the salary slip, as per which, there are no particular allowances, which are specific or personal to the deceased, therefore, the income which has been taken into account by MACT is sustained.

(iv) Another issue has been raised about granting loss of consortium at *Rs.1,76,000/-*. However, an amount of *Rs.44,000/-* has been awarded with respect to four family members, as per the alignment in ***National Insurance Co. Ltd. v. Pranay Sethi***, (2017) 16 SCC 680 and ***United India Insurance Company Limited vs. Satinder Kaur Alias Satwinder Kaur and Others*** (2021) 11 SCC 780. Accordingly, the same cannot be interfered with.

(v) Lastly, as regards the issue of grant of interest, the same has been granted at 8.5%, while *Ms. Jain*, contends that the same ought to have been granted at 7.5%. Reliance in this regard may be placed upon the judgment of Supreme Court in ***Kaushnuma Begum (Smt.) & Ors. v. New India Assurance Co. Ltd. & Ors.***, (2001) 2 SCC 9 wherein, while interpreting the powers of the Tribunal under Section 171 of the Motor Vehicles Act, 1988 to award simple interest on compensation from the date of

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institution of the claim petition, it was observed that the rate of interest awarded by nationalised banks on fixed deposits ought to serve as the guiding factor while determining the rate of interest payable on compensation amounts. Considering that the rate of interest in 2019 was in the range of 6.5-7.25% the interest rate shall be considered at 7.5%, since the claim petition was filed in March 2019.

4. By order dated 06th January 2023, the Court had directed deposit of the entire compensation amount with the MACT and further directed release of 80% of the awarded amount.

5. Considering that the interest rate has been reduced to 7.5%, original compensation shall be calculated at 7.5% per annum. The balance amount, (*original compensation – revised compensation*), along with accrued interest, shall be released to the Insurance Company. The remaining compensation shall continue to be released to claimants as per the directions given in the impugned award.

6. Accordingly, the appeal is disposed of with the above directions.

7. Pending applications, if any, are rendered infructuous.

8. Statutory deposit, if any, be refunded to Insurance Company, only if the order of deposit has been complied with.

9. Order be uploaded on the website of this Court.

ANISH DAYAL, J

OCTOBER 7, 2026/MK/*sp*

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