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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **MAC.APP. 322/2026 & CM APPL. 32867-32869/2026**
INDUSIND GENERAL INSURANCE CO LTDAppellant

Through: Mr. Brijesh Bagga, Adv.

versus

SMT. RAMA JOSHI & ORS.Respondent
Through: Mr. Varun Sarin, Adv. for R- to 5

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

ORDER
15.05.2026

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1. This appeal has been filed assailing the Award dated 24th January 2026 passed by the Motor Accident Claims Tribunal, South East, Saket Courts [“**MACT**”] in *MACT No. 106/2024*, whereby compensation of Rs.53,66,290/- along with 7.5% interest per annum was awarded [“**Impugned Award**”].
2. *Mr. Brijesh Bagga*, counsel for Insurance Company, assails the Impugned Award on the issue of quantum of compensation on two grounds:
 - i) **first**, since the deceased was not wearing a helmet, ‘*contributory negligence*’ has to be attributed to him; and
 - ii) **second**, that the ‘*rate of interest*’ was on the higher side at **7.5%**.
3. As regards the issue of ‘*contributory negligence*’ on account of not wearing a helmet, *Mr. Varun Sarin*, counsel for claimants, who appears on advance notice, has referred to a judgment of the Coordinate Bench of this Court in *Mamta v. Satpal*, 2012 SCC OnLine Del 2852, wherein, relying upon *Vidya Soni (Mus.) v. Pushpesh Dwivedi*, 2008 SCC OnLine MP 255, the



Court held that not wearing a helmet cannot be said to have contributed to the accident. For ease of reference, relevant paragraphs of both the judgements are extracted as under:

a) ***Mamta v. Satpal*** (*supra*):

“7. As far as the plea of contributory negligence on account of the deceased not wearing a helmet is concerned, even if it is assumed that the deceased was not wearing a helmet, he cannot be said to have contributed to the accident. Reference is made to a Division Bench judgment of M.P. High Court in Miss. Vidya Soni v. Pushpesh Dwivedi, AIR 2008 MP 319 wherein it was held that if a motorcyclist did not wear a helmet at the time of the accident, he cannot be said to have contributed to the accident.”

b) ***Vidya Soni (Mus.) v. Pushpesh Dwivedi*** (*supra*):

*“14. It is worth noting that the Full Bench referred to the decision in **Municipal Corporation of Greater Bombay v. Laxman Iyer**, 2004 (2) MPLJ (SC) 267 : 2004 ACJ 53, wherein it has been ruled thus:—*

“Where an accident is due to negligence of both parties, substantially there would be contributory negligence, the crucial question on which liability depends would be whether either party could, by exercise of reasonable care, have avoided the consequence of other's negligence. Whichever party could have avoided the consequence of other's would be liable for the accident. If a person's negligent act or omission was the proximate and immediate cause of death, the fact that the person suffering injury was himself negligent and also contributed to the accident or other circumstances by which the injury was caused would not afford a defence to the other. Contributory negligence is applicable solely to the conduct of a plaintiff. It means that there has been an act or omission on the part of the plaintiff which has materially contributed to the



damage, the act or omission being of such a nature that it may properly be described as negligence, although negligence is not given its usual meaning. (See: Charlesworth on Negligence, 3rd Edn. Para 328). ”

15. *After placing reliance on the aforesaid decisions, the Full Bench expressed the view as under:—*

“12. A plain reading of section 128 of the Act quoted above, would show that sub-section (1) casts a duty on the driver of a two wheeled motor cycle not to carry more than one person in addition to himself on the motor cycle. Similarly, Rule 123 of the Rules quoted above mentions the safety devices to be provided while manufacturing a motor cycle. These provisions obviously are safety measures for the driver and pillion rider and breach of such safety measures may amount to ‘negligence’ but such negligence will not amount to ‘contributory negligence’ on the part of the driver of the motor cycle, unless such negligence was partly the immediate cause of the accident or damage suffered by the pillion rider as would be clear from the authorities discussed above.”

16. *In this context, we may refer with profit to the decision rendered in O’Connell v. Jackson, (1972) 1 QB 270 : (1971) 3 WLR 463 (See: Ratanlal v. Dhirajlal. The Law of Torts revised by Justice G.P. Singh), wherein a motorcyclist involved in an accident has suffered a head injury as he did not wear a crash helmet. It was held that omission to wear a helmet is not negligence contributing to the accident but only to the damage suffered in the accident. In that case, the damages were reduced by fifteen per cent.”*

4. It is axiomatic that the issue of ‘contributory negligence’ has to be determined in the context of the negligence attributable to the victim which contributed to the occurrence of the accident. Non-wearing of a helmet, by



itself, does not relate to the causation of the accident, though in a given case it may have bearing on the extent of injuries sustained by the victim.

5. In the present case, the plea made by counsel for appellant/Insurance Company, seeking attribution of '*contributory negligence*' solely on account of non-wearing of a helmet, insofar as causation of the accident is concerned, is untenable and is accordingly rejected.

6. As regards the interest awarded at **7.5%**, considering the Reserve Bank of India [**RBI**] rates for fixed deposits prevalent at the time of the date of the accident [27th November 2023], the rate of interest is reduced to **6.5%**.

7. Accordingly, the compensation awarded by the MACT shall be deposited by the Insurance Company along with interest @ 6.5% per annum, within a period of four weeks, and the compensation shall be released in terms of the Impugned Award.

8. Accordingly, the appeal is dismissed in terms of the aforesaid directions.

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

10. Copy of the order be given '*dasti*' under the signatures of the Court Master.

11. Statutory deposit be refunded to appellant/Insurance Company, only if the order of deposit has been complied with.

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

ANISH DAYAL, J

MAY 15, 2026/MK/tk