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

+ **MAC.APP. 381/2024**

BHUSHARA BEGUM AND ORS.Appellants

Through: Appearance not given.

versus

UNITED INDIA INSURANCE COMPANY LIMITED AND ORS.

.....Respondents

Through: Mr. Pankaj Seth, Advocate for R-1.
(through VC).

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

% **29.07.2024**

CM APPL. 42280/2024 (Exemption).

1. Exemption allowed subject to just exceptions.
2. The application stands disposed of.

MAC.APP. 381/2024 & CM APPL. 42281/2024 (Condonation of delay)

3. The instant appeal under Section 173 of the Motor Vehicles Act, 1988 has been filed on behalf of the appellants seeking the following reliefs:

“A) appeal of the Appellants may please be allowed / accepted and the Award dated 18.01.2024 passed by Shri Sachin Gupta, Presiding Officer, Motor Accident Claims Tribunal (West), Tis Hazari Courts, Delhi in MACT No. 186/2022 titled as Bushara Begam & Ors. Vs. Surjeet Kumar & Ors. "be suitably modified and compensation be enhanced;

B) Any other or further order which this Hon'ble Court may deem fit and proper in the present facts and circumstance may also be passed in favour of the Appellants and against the



Respondents.

4. Learned counsel appearing on behalf of the appellants submitted that the learned Tribunal has failed to appreciate the evidence relied upon by the claimants/appellants. It is further submitted that the examination of the witnesses conducted by the claimants/appellants has not been properly appreciated while passing the impugned award. It is also submitted that the appellants have examined PW2 namely Mohd. Asim to prove the income of the deceased.

5. Learned counsel appearing on behalf of the appellants submitted that while computing the compensation, the learned Tribunal placed reliance on the salary slip which is on record. It is further submitted that the learned Tribunal erred in appreciating the fact that the appellant failed to prove the driving licence of the deceased on record and working as a driver at the time of accident. Irrespective of that, the award was computed based on the minimum wage of an unskilled worker, awarding an interest @ 7% per annum. However, it is a settled law of the Hon'ble Supreme Court and various High Courts that a minimum interest of 9% per annum to be awarded on the compensation amount.

6. In view of the above facts and circumstances, learned counsel appearing on behalf of the appellants submitted that the impugned award passed by the learned Tribunal is erroneous and contrary to the law established.

7. Learned counsel appearing on behalf of the appellants further submitted that in the instant matter, notice may be issued to the respondent no. 1 and the notice *quo* the other respondents may be dispensed with.



8. Heard learned counsel appearing on behalf of the appellant and perused the record as well as the impugned order. This Court is of the considered view that the matter requires consideration.
9. Issue notice. Learned counsel for the respondent no. 1 appeared on advance notice, no need for formal notice.
10. Learned counsel appearing on behalf of the respondent no. 1 vehemently opposed the instant appeal and accompanying application. He prayed for four weeks' time to file reply to the appeal as well as accompanying application. Let the same be filed within four weeks as prayed. Rejoinders thereto, if any, be filed within two weeks thereafter.
11. List on 5th November, 2024.
12. Lower Court Record be requisitioned before the next date of hearing in digital form.

CHANDRA DHARI SINGH, J

JULY 29, 2024

rk/sm

Click here to check corrigendum, if any