$~25

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

\+ MAC.APP. 816/2025

THE ORIENTAL INSURANCE COMPANY LIMITED .....Appellant

Through: Mr. Ravi Sabharwal, Advocate

versus

KASHMIRI DEVI & ORS. .....Respondents

Through: Mr. S. N. Parashar and Mr. Ritik Singh, Advocates for claimants

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

O R D E R

% **23.12.2025**

CM APPL. 81572/2025 (*Exemption*)

1. Exemption allowed, subject to all just exceptions.

2. The application stands disposed of.

MAC.APP. 816/2025 & CM APPL. 81571/2025 (*Stay*)

3. The appellant – Oriental Insurance Co. Ltd. ["Insurance Company"] has preferred the present appeal against the award dated 20.09.2025, passed by the Motor Accident Claims Tribunal ["Tribunal"] in MACT No. 452/2016, arising out of a fatal accident, in which one Mr. Devender Kumar lost his life.

4. Mr. Ravi Sabharwal, learned counsel for the Insurance Company, submits that the quantum of compensation awarded to the claimants is excessive on two counts:

a) That the evidence relating to the employment of the deceased was not credible, as the Tribunal accepted the testimony of the employer [PW-3] to the effect that the deceased was earning a salary of Rs. 22,400/- per month, despite there being no documentary record whatsoever in support of the said claim. It is submitted that even though the alleged payments were stated to have been made in cash, no vouchers, registers, or other contemporaneous records were maintained. According to Mr. Sabharwal, the attendance register relied upon by the Tribunal was also unreliable.

b) That the Tribunal has erroneously treated the parents, wife, and two siblings of the deceased as dependents, despite the testimony of the mother of the deceased [PW-1] to the effect that the household expenses were being borne by her husband, i.e. the deceased's father. According to Mr. Sabharwal, this erroneous determination resulted in a deduction towards personal expenses at the rate of $1/3^{rd}$, whereas the appropriate deduction ought to have been $1/4^{th}$ of the income of the deceased.

5. The aforesaid issues require further consideration.

6. Issue notice. Mr. S. N. Parashar, learned counsel accepts notice on behalf of the respondent Nos.1 to 4. Notice be served upon respondent No.7 by all permissible modes, including through learned counsel appearing on her behalf before the Tribunal. Service upon respondent Nos. 5 and 6, being the owner and the driver of the offending vehicle, is dispensed with, as no recovery rights have been granted against them.

7. Subject to the Insurance Company depositing the entire decretal amount alongwith up-to-date interest with the Tribunal within a period of

eight weeks from today, the execution of the impugned award shall remain stayed until the next date of hearing. However, the Tribunal is permitted to release 50% of the awarded amount to the claimants in accordance with the directions regarding apportionment and disbursement contained in the impugned award.

8. The Trial Court record be requisitioned, and an electronic copy thereof be placed on the file of this appeal.

9. Written submissions to the appeal be filed by the parties, with reference to the electronic record of the Court, alongwith copies of any relevant judgments which they wish to rely upon, within eight weeks from today.

10. List before the learned Registrar on 27.03.2026 for completion of service.

11. List on 18.05.2026.

PRATEEK JALAN, J

DECEMBER 23, 2025
dy/SD/