

## National Moot Court Competition – 2022

(16<sup>th</sup> -17<sup>th</sup> February, 2022)

### Moot Problem, 2022

On 06.02.2019, Mr. Ramesh (27 years old, daily wage construction worker) along with his son Golu (5 years old) was going towards Palasia from Bhawarkuwa on his Activa scooter; Mr. Ramesh was driving the scooter on which Mr. Golu was pillion riding; at about 5:00 p.m., when they reached Navlakha square, then a car bearing registration No. MP 09 CA 0000 (hereinafter referred to as the offending vehicle) being driven in front of Mr. Ramesh's scooter by Mr. Avinash suddenly stopped and Mr. Ramesh, having no time to stop the scooter, hit the car of Mr. Avinash. As a result, both the riders fell down; Mr. Ramesh hit the divider and suffered multiple injuries on his head, legs, chest, backbone and various parts of the body; he was taken to the Hospital, however he could not be saved.

Mr. Ramesh's wife Mrs. Reeta filed the claim petition at Indore MACT Court having her son Golu, and X's mother as claimant under Section 166 of the Motor Vehicle Act, 1988 against Mr. Avinash, and the Insurance Company Ltd. where the car was insured. On getting notice, all the three respondents had appeared and issues were framed on merits. After hearing arguments, the Tribunal reached the conclusion that Mr. Avinash was driving rashly and as result he was entitled to get compensation from driver, owner and insurance company of the offending vehicle.

Vide impugned award dated 19.10.2021, compensation of Rs. 10,18,000/- with interest @ 9% per annum was awarded to the claimant payable by respondents with costs. The MACT Court considered the salary of deceased to be 6000 INR, and took the Multiplier of 17 to calculate the compensation. 10,18,000/- further included the other costs such as for the last rites.

Being aggrieved from the Order, the Respondent No. 2 Insurance Company filed an appeal and argued that the accident happened due to contributory negligence, the multiplier taken is high and the interest rate is high and hence therefore it is not the just compensation. The High Court rejected the arguments and dismissed the appeal.

The Insurance company has filed the present appeal in SC, being aggrieved from the order of the High Court for reduction/removal of the compensation. The issues before the Supreme Court are:

1. Whether the appeal is maintainable.
2. Whether the Matter is of Contributory negligence.

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3. Whether the amount of compensation ordered by the MACT is just.