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IN THE HIGH COURT OF DELHI AT NEW DELHI

+ MAC.APP.No.184/2009

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Date of decision: 21st August, 2009

NEW INDIA ASSURANCE COMPANY Appellant
Through : Mr. S.L. Gupta, Adv.

versus

LAXMI DEVI & ORS. Respondents
Through : Mr. N.K. Shangle, Mr. Rajeshwar
Gupta and Mr. Anubhav Shangle,
Adv. for R – 1 and 2.

CORAM :-

THE HON'BLE MR. JUSTICE J.R. MIDHA

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| 1. | Whether Reporters of Local papers may be allowed to see the Judgment? | NO |
| 2. | To be referred to the Reporter or not? | NO |
| 3. | Whether the judgment should be reported in the Digest? | NO |

JUDGMENT (Oral)

MAC.APP.No.184/2009

1. The appellant has challenged the award of the learned Tribunal whereby compensation of Rs.4,63,480/- has been awarded to claimants/respondent Nos.1 and 2.

2. The accident dated 10th March, 2005 resulted in the death of Naresh Kumar. The deceased was riding on a scooter as pillion rider on Najafgarh Road near Nangli Dairy when the scooter met with an accident resulting in the death of the deceased.

3. The deceased was aged 27 years at the time of the accident and was survived by his widowed mother and wife. The widowed mother filed the claim petition before the learned Tribunal. The

deceased was self employed and was earning Rs.3,200/- per

month. However, in the absence of any documentary proof of his income, the learned Tribunal took the minimum wages at Rs.3,045/- per month and deducted 1/3rd towards the personal expenses of the deceased and applied the multiplier of 18 to compute the loss of dependency at Rs.4,38,480/-. Rs.25,000/- has been awarded towards the loss of love and affection, funeral expenses and loss of estate. The total compensation awarded is Rs.4,63,480/-.

4. The appellant has challenged the impugned award on the sole ground that the insurance policy does not cover the risk of a pillion rider.

5. In the case of **Mahinder Singh vs. National Insurance Co. Ltd. MAC.APP.No.588/2007** the similar issue was involved as to whether the occupant of the car was covered under the policy. The Manager of National Insurance Co. Ltd. was examined who deposed that the policy covers the risk of occupants of the car. Vide judgment dated 27th July, 2009, it was held by this Court that occupants of the car are covered under the policy. On the same analogy, the pillion rider of the scooter is also covered under the policy.

6. For all the aforesaid reasons, the appeal is dismissed. No costs.

7. This Court appreciates the effective assistance rendered by Mr. S.L. Gupta, learned counsel for the appellant.

8. The appellant has deposited the entire award amount with the learned Tribunal in terms of the order dated 8th April, 2009.

9. The original fixed deposit receipts in terms of the award are with the learned Tribunal in terms of the order dated 8th April, 2009. The learned Tribunal is directed to release the fixed deposit receipts to claimants/respondent Nos.1 and 2 in terms of the award.

10. The statutory amount of Rs.25,000/- be refunded to the appellant through counsel by the Registry within a period of two weeks.

11. The matter need not be listed before the Registrar on 11th November, 2009.

12. Copy of this order be given 'Dasti' to learned counsel for both the parties under signatures of Court Master.

CM No.4917/2009

Dismissed.

J.R. MIDHA, J

AUGUST 21, 2009

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