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

Date of decision: 5th May, 2015

+ **MAC.APP. 477/2012**

BAJAJ ALLIANZ INSURANCE CO. LTD. Appellant

Through: Mr. K.L.Nandwani, Adv. with
Mr. Manish Kaushik, Adv.

versus

GAJRAJ & ORS.

..... Respondents

Through: Mr. Jatinder Kumar, Adv. for
R-1 & R-2.

CORAM:

HON'BLE MR. JUSTICE G.P.MITTAL

G. P. MITTAL, J. (ORAL)

1. The appeal is directed against the judgment dated 03.02.2012 passed by the Motor Accident Claims Tribunal (the Claims Tribunal) whereby compensation of ₹8,02,148/- was awarded in favour of Respondents no.1 and 2 for the death of Bhupender, who suffered fatal injuries in a motor vehicular accident which occurred on 28.04.2007.
2. It is an admitted case of the parties that deceased Bhupender suffered fatal injuries while he was driving Mahindra Champion bearing registration no.DL-1CF-8470.

3. It is urged by the learned counsel for the Appellant that deceased Bhupender was not a third party. He himself was the driver of the vehicle involved in the accident and the vehicle's Insurance Company was not liable to pay the compensation.
4. Copy of the insurance policy is placed on record which shows that an additional premium of ₹50/- was paid for covering the risk of two employees for operation and maintenance of the vehicle. In view of this, risk of the driver under the Employees Compensation Act, 1923 (the Act) was covered.
5. Learned counsel for Respondents no. 1 and 2 fairly concedes that Respondents no.1 and 2 would be entitled to compensation without proof of negligence under the Employees Compensation Act, 1923.
6. Salary of deceased Bhupender was stated by PW-1 (father of the deceased) to be ₹3200/- per month on the date of the accident. The compensation payable as per Section 4 of the Act as enforceable at the time of the accident on 28.04.2007 comes to ₹3,62,208/- ($3200/- \times \frac{1}{2} \times 226.38/-$ (factor on the age of 18 as per Schedule 4)).
7. Respondents no.1 and 2 shall be entitled to interest @ 12% per annum *w.e.f.* 28.05.2007 till the date of deposit of the amount in this Court.

8. The amount held payable shall be payable to Respondents no.1 and 2 in equal proportion.
9. An amount of ₹1,72,555/- each has already been released in favour of Respondents no.1 and 2. The balance amount payable shall be released forthwith.
10. The excess amount shall be refunded to the Appellant Insurance Company.
11. The appeal is allowed in above terms.
12. Statutory amount, if any, deposited shall be refunded to the Appellant Insurance Company.
13. Pending applications, if any, also stand disposed of.

(G.P. MITTAL)
JUDGE

MAY 05, 2015
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