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

% **Date of Decision: 07th October, 2016**

+ **FAO 57/2012**

UNITED INDIA INSURANCE CO LTD Appellant
Through: **Mr. Sameer Nandwani, Adv.**

versus

RENU & ORS Respondents
Through: **Mr. M.K. Rathee and Mr. J.P. Sikka, Advs. for R1 to R6.**
Mr. Peeyoosh Kalra, ASC for GNCTD with Mr. Shiva Sharma, Adv.

CORAM:
HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

1. The appellant has challenged the order of the Commissioner, Employees' Compensation whereby compensation of Rs.3,94,120/- has been awarded to claimants/respondents No.1 to 6.
2. The accident dated 01st February, 2009 resulted in the death of Rajesh. The deceased was survived by his widow, four minor children and mother who filed the application for compensation before the Commissioner, Employees' Compensation.
3. The appellant contested the claim petition on the ground that the insurance policy of the offending vehicle was cancelled on account of dishonour of the cheque towards the premium. The Commissioner,

Employees' Compensation held the appellant liable and granted recovery rights to the appellant to recover the awarded amount from respondent No.7.

4. Learned counsel for the appellant submits that the cheque in respect of the premium of the offending vehicle was dishonoured upon presentation whereupon the appellant issued notice dated 22nd September, 2008 to respondent No.7 and the intimation of the cancellation of the policy was given to the Regional Transport Office on 22nd September, 2008.

5. Learned counsel for the respondents No.1 to 6 submits that the proof of sending the notice and service thereof to Road Transport Authority is not on record and, therefore, the Commissioner, Employees' Compensation rightly awarded the compensation to respondents No.1 to 6.

6. This Court has perused the record of the Commissioner, Employees' Compensation which does not contain proof of sending the notice to the Regional Transport Office. In that view of the matter, the Commissioner, Employees' Compensation was justified in awarding the compensation to respondents No.1 to 6 and thereafter, granting right to recover the same to the appellant from respondent No.7.

7. The appeal is dismissed. The appellant has deposited the entire award amount with the Commissioner, Employees' Compensation out of which 50% amount has been released to respondents No.1 to 6 and the balance Rs.2,07,430/- is lying in fixed deposit with State Bank of India, Jail Road, Hari Nagar. The Commissioner, Employees'

Compensation, Hari Nagar is directed to instruct the State Bank of India, Jail Road, Hari Nagar to discharge the FDR No.35612552040 for Rs.2,07,430/- and release 10% of the amount to respondent No.1. The balance amount be kept in fixed deposit in the following manner:-

Sr. No.	Duration of FDR	<u>Resp. 1</u> Wife (50%)	<u>Resp. 3</u> Minor Son (10%)	<u>Resp. 4</u> Minor Son (10%)	<u>Resp. 5</u> Minor Daughter (10%)	<u>Resp. 6</u> Minor Son (10%)
1.	6 months	10%	10% of the amount be kept in FDR till he attains the age of majority.	10% of the amount be kept in FDR till he attains the age of majority.	10% of the amount be kept in FDR till she attains the age of majority.	10% of the amount be kept in FDR till he attains the age of majority.
2.	1 yr	10%				
3.	1 ½ yrs	10%				
4.	2 yrs	10%				
5.	2 ½ yrs	10%				
TOTAL		50%	10%	10%	10%	10%
GRAND TOTAL						90%

8. Respondent no.1 shall intimate the particulars of her savings bank account to State Bank of India, Jail Road, Hari Nagar.

9. The monthly interest on the FDRs of respondents No 1. shall be credited in her individual savings bank accounts. However, the monthly interests on the FDRs of the four minors, namely, respondents No. 3, 4,5 and 6 shall be credited in the savings bank account of respondent No.1. At the time of maturity, the fixed deposit amount shall be automatically credited in the individual savings bank accounts of the beneficiaries.

10. All the original FDRs shall be retained by State Bank of India, Jail Road, Hari Nagar. However, the photocopies of the same shall be provided to the claimants/respondents.

11. No cheque book or debit card be issued to the claimants/respondents without permission of this Court.
12. No loan or advance or pre-mature discharge shall be permitted without the permission of this Court.
13. The claimants/respondents shall approach the State Bank of India, Jail Road, Hari Nagar for completing the formalities for the disbursement of the award amount in terms of this order.
14. State Bank of India, Jail Road, Hari Nagar shall ensure that the savings bank account of respondent No.1 is an individual account and not a joint account.
15. Copy of this judgment be given *dasti* to learned counsels for the parties under signature of Court Master as well as Mr. Peeyoosh Kalra, learned standing counsel for GNCTD for compliance.

J.R. MIDHA, J.

OCTOBER 07, 2016
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