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

+ MAC.APP. 100/2016

SHRIRAM GENERAL INSURANCE CO LTD

..... Appellant

Through Ms. Meenakshi Midha, Adv.

versus

SEVA RAM & ORS

..... Respondent

Through None

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **01.02.2016**

CM No.3444/2016

Exemption allowed, subject to just exceptions.

MAC.APP.No.100/2016 & CM No.3443/2016 (stay)

The insurance company is in appeal challenging the award of compensation by the Motor Accident Claims Tribunal (“the Tribunal”) on petition under Sections 166 and 140 of Motor Vehicles Act (“MV Act”) presented by the first four respondents on account of death of Geeta Rani in motor vehicular accident that occurred at about 8.45 PM on 24.01.2013 at Main Najafgarh Road in front of Dak Khana, Nangloi, Delhi. The deceased Geeta Rani was wife of the first respondent and mother of the second to fourth respondents. The Tribunal has awarded a compensation in the sum of ₹16,05,461/- in favour of the said respondents (claimants), adopting the multiplier of 13, upon assuming the age of the deceased as 47 years and taking her notional income at ₹8,008/- per month, adding the element of future prospects for increase, calculating the loss of dependency on the basis

of gratuitous services rendered by her, she being a housewife. The contentions of the insurance company are twofold, viz., that the age of the deceased has been wrongly assumed to be 47 years inasmuch as the oral testimony of the first respondent Seva Ram (PW-1) has indicated that she was 4-5 years younger to him, his age having been found 55 years on the basis of voter identity card. It is further argued that the element of future prospects could not have been added against notional income.

Having considered the contentions raised, this Court finds no substance in the appeal. The learned Tribunal has discussed the evidence as to the age of the deceased in paragraphs 32 to 34 and accepted the age as reflected by documentary evidence, viz., ration card (mark C) indicating the year of birth to be 1966 and, thus, finding the age of the deceased at the time of accident (24.01.2013) to be 47 years. Given the fact that documentary evidence in the said nature is available, the oral testimony has been rightly ignored, and therefore, no fault can be found with the conclusions reached by the Tribunal. As regards the other contention, having regard to the fact that it is the gratuitous services rendered by the housewife which were being compensated, no error can be found with the element of future prospects having been factored in. The appeal with the application for stay is unmerited and is dismissed in *limine*.

R.K.GAUBA, J

FEBRUARY 01, 2016
VLD