

\$~52

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

Date of Decision: 18th April, 2016

+ **MAC.APP. 158/2015**

SHRIRAM GENERAL INSURANCE CO LTD Appellant

Through: None

versus

SAPNA @ KANCHAN & ORS Respondents

Through: Mr. J.P.N. Shahi, Adv. for R-1

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT

R.K.GAUBA, J (ORAL):

The court was closed for holidays from 10.04.2016 to 17.04.2016. Hence, the matter was taken up today.

1. By judgment dated 24.11.2014 in accident claim case (658/2014), motor accident claim Tribunal (Tribunal) granted compensation in favour of the first respondent (claimant), in the sum of ₹3,64,500/- with interest on account of death of Karan Tomar @ Khem Karan @ Karan under section 163-A of Motor Vehicle Act, 1988 (M.V. Act).

2. It was proved before the Tribunal that the death had occurred due to accident that had been caused on 04.03.2011 involving a motor vehicle described as dumper bearing registration no. HR-38N-2402 (offending

vehicle) which was admittedly insured against the third party risk for the period in question with the appellant insurance company (insurer).

3. The facts pleaded and proved before the Tribunal included one that the deceased was 21 years of age at the time of accident, a bachelor, living with the claimant (his elder married sister) and working for gain.

4. The only ground pressed in this appeal by the insurer is that there was no loss of dependency as the claimant was an elder married sister. Having heard both sides and gone through the tribunal's record, the appeal is found to be frivolous. The claimant had proved by her own evidence, which was not challenged, that the deceased was living with her and there being no other legal heirs, she was dependant on the deceased.

5. In above view, the appeal is dismissed.

6. The balance amount lying in deposit in terms of order dated 19.03.2015 with up-to-date accrued interest shall now be released to the claimant.

7. The statutory amount, if made, shall be refunded.

R.K. GAUBA
(JUDGE)

APRIL 18, 2016
afa