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

Date of Decision: 12th February, 2016

\+ **MAC.APP. 539/2011**

SHRIRAM GENERAL INSURANCE CO LTD ..... Appellant

Through: Mr.Pankaj Seth, Adv.

versus

SALEEM & ORS ..... Respondents

Through: None

CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT

R.K.GAUBA, J (ORAL):

1. The Insurance Company in appeal under Section 173 of the Motor Vehicles Act, 1988 (MV Act) is aggrieved with the judgment dated 05.01.2011 of Motor Accident Claims Tribunal (the Tribunal) in MACT case No.551/2010 awarding compensation in the sum of ₹3,75,000/- in favour of first and second respondents on the ground that there was no inquiry held.

2. Having heard the submissions of the appellant and having gone through the Tribunal's record, it is found that the submissions of the Insurance Company (appellant) are correct.

3. The matter arose due to detailed accident report (DAR) submitted, by the police on the basis of the investigation into FIR bearing No. 306/2010 of PS Model Town, in the wake of directions of this Court

vide order dated 14.07.2009 in MAC APP. No.13/2007 titled *National Insurance Company Vs. Farzana*. The said DAR was treated as a claim petition and the Insurance Company was called upon to respond with legal offer for compensation. The impugned judgment shows that the Insurance Company declined to give an offer of compensation and instead opted to file written statement disputing the liability on various grounds. The Tribunal nonetheless proceeded to grant compensation taking into account only the fact that the deceased was aged about 6 years.

3. The procedure adopted by the Tribunal cannot be upheld. In similar fact-situation, a similar award by the Tribunal was set aside by a learned Single Judge of this Court in MAC. APP.No.503/2012 titled *Bajaj Allilanz General Insurance Company Ltd. Vs. Smt. Reshun Nisha & Ors*. decided on 17.12.2012.

4. Thus, the appeal must be allowed as the award has been granted without any inquiry which procedure cannot be sustained. Ordered accordingly.

5. Vide order dated 02.06.2011, the Insurance Company had been directed to deposit the entire awarded amount with upto date interest with the Registrar General of this Court and upon such deposit being made, it was allowed to be released to the claimant in terms of the impugned order.

6. The first respondent (one of the claimants) is present in person and submits that the claimants have not received any money in terms of the said orders. If this is the position, the awarded amount shall not be

released. The earlier order to this effect is modified. The Registrar General shall take steps to transfer the amount deposited with accrued interest, if any, to the Tribunal which shall keep it in a fixed deposit interest bearing account in a nationalised bank in the name of Insurance Company initially for a period of 6 months to be renewed from time to time. The said deposit shall be dealt with in accordance with the judgment/award that is eventually passed.

6. Statutory deposit, if made, shall be refunded.

7. The parties are directed to appear before the Tribunal on 18th April, 2016 for further proceedings in accordance with law.

8. The appeal stands disposed of in above terms.

R.K. GAUBA
(JUDGE)

FEBRUARY 12, 2016
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