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

Date of Decision: 04.05.2016

\+ MAC.APP. 526/2013

FUTURE GENERAL INDIA INS CO LTD ..... Appellant

Through: Ms.Suman Bagga and Mr.Pankaj Gupta, Advs.

versus

HARISH CHANDER & ORS ..... Respondents

Through: None.

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

JUDGMENT

R.K.GAUBA, J (ORAL):

1. Mani Ram, found at the inquiry to be aged 62 years, a widower, died in a motor vehicular accident that occurred on 10.09.2012 involving motor vehicle described as DL-1LR 2829 (the offending vehicle), admittedly insured against third party risk with the insurance company (the insurer). His two sons and two daughters, all major and married, first to forth respondents (the claimants), instituted accident claim case (Suit No. 202/2012) on 20.10.2012 impleading the driver-cum-owner of the offending vehicle, the fifth respondent, and the insurer as parties. The Tribunal held inquiry and, by judgment dated 10.05.2013, held the case about death having occurred due to negligent driving of the offending vehicle as proved and proceeded to award compensation in the sum of ₹3,30,570/- with interest in

favour of the claimants, the said amount being inclusive of loss to estate at ₹ 2,94,840/-, ₹10,000/- towards funeral expenses, ₹25,000/- towards love & affection and ₹730/- towards medical bills.

2. The insurance company which has been burdened with the liability to pay the compensation has come up in appeal questioning the computation of loss to estate on the ground that it should have been to the extent of 1/3rd rather than 50% of income. This contention must only be noted to be rejected. Though the deceased was a widower, his social responsibilities towards his married daughters and families of his married sons would not get exhausted. In the given facts and circumstances as brought out through evidence on record, the view taken by the Tribunal in deducting 50% towards personal & living expenses cannot be faulted. The appeal is, therefore, unmerited and liable to be dismissed.

3. By order dated 31.05.2013, the insurance company had been directed to deposit the entire awarded amount with up-to-date interest, out of which 80% was allowed to be released. The Registrar General shall now release the balance to the claimants in terms of the impugned judgment.

4. Statutory amount, if deposited, shall be refunded to the appellant.

5. The appeal is disposed of in the above terms.

R.K. GAUBA
(JUDGE)

MAY 04, 2016
mr