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

Date of Decision: 11th February, 2016

\+ **MAC.APP. 536/2014 & CM No.10300/2014 (stay)**

SHRIRAM GENERAL INSURANCE CO LTD..... Appellant
Through: Mr. Sameer Nandwani, Adv.

versus

SAROJ DEVI & ORS ..... Respondents
Through: Mr. S N Parashar, Adv.

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

JUDGMENT

R.K.GAUBA, J (ORAL):

1. The short issue raised in this appeal by the insurance company concerns the element of future prospects of increase in income to the extent of 30% being added while calculating the loss of dependency in the claim case arising out of death of Prithvi Singh in motor vehicular accident that occurred at about 1.30 PM on 19.01.2002 involving tempo bearing registration No.HR-69 8313 driven by the fifth respondent and owned by the sixth respondent, the vehicle admittedly being covered by an insurance policy issued by the appellant company against third party risk for the period in question.

2. The contention raised by the insurance company which was asked to indemnify the insured (the owner of the offending vehicle) for payment of compensation in the sum of ₹16,05,421/- is that there was no evidence adduced to show that the deceased was in permanent

employment against a salary which had the prospects of increase over the time.

3. The Tribunal considered the evidence about the income in (para 19 of) the impugned judgment as under :

> *"19. The deceased was stated to be doing the work of Security Guard in Absolute Security Services Pvt. Ltd. and was stated to be earning lastly Rs.9,010/- per month. Petitioners have produced and examined PW2 Sh. Raj Kumar Gaur, Assistant, Absolute Security Services, who have proved attested copy of appointment letter of deceased as EX.PW2/1 and also proved computerized photocopy of the salary record from the month of July, 2011 to January, 2012 as EX.PW2/2. The cross-examination carried on by the respondent no. 3 is not suggestive of anything which may discard the testimony of this witness as to the service of deceased as Security Guard and his last drawn salary. Therefore, I hold that at the time of death of deceased, he was working as Security Guard in Absolute Security Services and was drawing lastly salary of Rs.9,010/- per month."*

4. The learned counsel for the claimant has shown document Ex.PW-1/3 which was also proved during the inquiry indicating the payment details for the month of December, 2011 as maintained by the employer company in respect of its workers including the deceased. The said document reflects that the deceased was paid ₹6,656/- as the basic pay with certain other allowances, totalling to ₹9,010/- also contributing to provident fund and risk cover under scheme of Employees State Insurance Corporation for the necessary benefits. This evidence reassures that the deceased was not only in permanent employ but also subject to periodic increase in his wages. Thus, there is no

substance in the grievance agitated in the appeal. The appeal is liable to be dismissed.

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

6. By order dated 24.07.2014 the insurance company had been directed to deposit the entire awarded amount with up-to-date interest in this Court out of which 70% was allowed to be released to the claimants. The Registrar General is directed to release the balance out of the said deposit.

7. The appeal is disposed of in above terms.

R.K. GAUBA

(JUDGE)

FEBRUARY 11 2016
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