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

Date of Decision: 12th February, 2016

\+ MAC.APP. 539/2014 & CM APPL. 10307/2014, 23200/2015

SHRIRAM GENERAL INSURANCE CO. LTD ..... Appellant

Through: Mr. Sameer Nandwani, Adv.

versus

ARCHANA & ORS ..... Respondents

Through: Mr. S. N Parashar, Adv. for R-1 to 5.

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

JUDGMENT

R.K.GAUBA, J (ORAL):

1. By appeal at hand preferred under Section 173 of Motor Vehicles Act, 1988 (the MV Act), the insurance company seeks to question the computation of compensation by the motor accident claims tribunal (the tribunal) as awarded by judgment dated 24.04.2014 in MACT case registered as suit no.130/12 only on the ground that the element of future prospects has been wrongly added to calculate the loss of dependency.

2. The claim case had arisen out of death of Dhan Singh in motor vehicular accident on 17.01.2012 involving truck bearing registration no.RJ-32-GA-8868 which concededly was insured with the appellant company against third party risk for the period in question.

3. It is noted that the claim petition arose out of the detailed accident report (DAR) treated as claim petition. The widow and other members of the family dependant on the deceased Dhan Singh were joined as parties and eventually assisted in the inquiry conducted by the tribunal. In the course of the said inquiry, the widow Archana (first respondent herein) sought to prove title to compensation and status besides earnings of the deceased through her affidavit (Ex.PW1/A). In addition, she examined one Anil Kumar (PW1) and Dharmender Kumar (PW3) in support of her case. According to the evidence of PW1, the deceased was engaged as a driver with M/s D. K. Transport Service, Kishan Garh, Vasant Kunj, Delhi at salary of Rs.15,000/- per month. PW3 is the proprietor of the said concern and proved on the basis of the records of employment (Ex.PW3/1 and PW3/3) that the deceased was engaged at the relevant point of time as driver at a salary of Rs.15,000/- with bonus and that earlier he was engaged as *munim* by the same some entity at a salary of Rs.11,000/- per month from year 2007 onwards.

4. In the face of the above evidence, it is clear that the income of the deceased, a person aged 24 years had been on the increase over the period of his employment. Thus, there is no substance in the argument that the element of future prospects could not have been added.

5. The appeal is, therefore, unmerited and is liable to be dismissed.

6. By order dated 24.07.2014, the insurance company had been directed to deposit the awarded amount with interest with the Registrar General and out of the said deposit, sixty percent (60%) was allowed to be released to the claimant. The Registrar General shall release the balance in terms of the impugned judgment.

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

8. The appeal is disposed of in above terms.

R.K. GAUBA
(JUDGE)

FEBRUARY 12, 2016/ssc