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

Date of Decision: 24th May, 2016

\+ **MAC.APP. 343/2016 & CM No.14723/2016**

RELIANCE GENERAL INSURANCE CO LTD ..... Appellant

Through Mr. Rajat Brar, Adv.

versus

SHALU SHARMA & ORS ..... Respondent

Through None

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

JUDGMENT

R.K.GAUBA, J (ORAL):

1. Narinder Sharma, aged 42 years, running his own business in the name and style of M/s Mahak Cable Networks in DDA flats, East Punjabi Bagh, New Delhi died in a motor vehicular accident that occurred on 14.09.2013 involving negligent driving of motor vehicle described as bearing registration No.HR 63B 2807 (offending vehicle) which was admittedly insured against third party risk with the appellant insurance company (insurer). His dependent family members, first to fourth respondents, (claimants) instituted accident claim case (MACT No.309/2014) on 15.04.2014 seeking compensation under Sections 166 & 140 of Motor Vehicles Act, 1988 (MV Act). The tribunal, after inquiry, by judgment dated 15.02.2016, upheld the case of negligent driving of the

offending vehicle having led to the death and awarded compensation in the sum of ₹30,26,810/- with interest at 9% per annum in favour of the claimants directing the insurer to pay.

2. By the appeal at hand, the insurer raises only one grievance, namely, that in calculating the loss of dependency, the tribunal has factored in the element of future prospects of increase to the extent of 30% which, in the submission of the appellant, was improper. Under directions of this Court, the insurer has placed on record the photocopies of the income tax returns (ITRs) which were relied upon by the claimants and proved at the inquiry before the tribunal to prove the nature of avocation and the income generated from year to year. The ITRs pertained to the assessment years 2010-11, 2011-12 and 2012-13. A perusal of the said ITRs shows that the deceased had declared the gross total income ₹2,16,100/-, 2,20,960/- and 2,43,900/- respectively for the said three assessment years.

3. Given the above nature of irrefutable evidence adduced before the tribunal, showing progressive rise in the income, the element of future prospects cannot be grudged. [see judgment dated 28.03.2016 in MAC.APP. 548/2013 *United India Insurance Co. Ltd. v. Kamla & Ors*.]

4. Thus, the appeal is unmerited and dismissed *in limine* with application.

5. The statutory deposit shall be refunded.

(R.K. GAUBA)
JUDGE

MAY 24, 2016
VLD