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

Date of Decision: 06.05.2016

\+ MAC.APP. 567/2007 and CM No.12449/2007, 12450/2007 and 18141/2009

UNITED INDIA INSURANCE CO. LTD. ..... APPELLANT

Through: None

versus

SMT. BIMLA GOYAL AND ORS. .... RESPONDENTS

Through: None

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

JUDGMENT

R.K.GAUBA, J (ORAL):

1. By judgment dated 02.06.2007, the Motor Accident Claims Tribunal (Tribunal) decided accident claim case (suit no.242/2005) that had been instituted on 05.12.2005 by the first to fourth respondents (claimants) seeking compensation for death of Jai Bhagwan Goyal in a motor vehicular accident that had occurred on 15.09.2005 involving negligent driving of a motor vehicle described as a dumper bearing registration no.HR 69B 0235 (offending vehicle). The appellant insurance company (insurer) was impleaded as one of the respondents, it having concededly issued an insurance policy in respect of the offending vehicle for the period in

question. On the basis of the evidence led during inquiry, the tribunal by the impugned judgment awarded compensation in the sum of Rs.10,87,970/- with interest in favour of the claimants directing the insurer to pay the same.

2. By the appeal at hand, the insurer has raised primarily two contentions concerning computation; one, that the income had been wrongly assumed on the basis of Income Tax Return (ITR) and, second, that the deduction on account of personal & living expenses should have been made to the extent of $1/3^{rd}$ rather than $1/4^{th}$.

3. At the hearing no one has appeared on behalf of either side to assist. Having regard to the old pendency of the matter, there is no good reason why the hearing should be deferred.

4. Having perused the record, it is found that the appeal must fail. The Income Tax Return for the assessment year 2004-2005 (Ex. PW1/2) has been proved on record. There is no good reason why it should be disbelieved.

4.1 The deduction on account of personal & living expenses to the extent of $1/4^{th}$ is in accord with *dicta* in *Sarla Verma (Smt.) & Ors. v. Delhi Transport Corporation & Anr.,* (2009) 6 SCC 121, in as much as the dependent family members were 5 in number.

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

6. By order dated 22.12.2009, the insurance company had been directed to deposit the entire awarded amount with upto date interest with the UCO Bank, Delhi High Court branch, New Delhi within the period specified. The

amount, if so deposited, shall now be released to the claimants in terms of the impugned award, failing which the claimants are at liberty to take out appropriate proceedings for its recovery.

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

8. The appeal and the applications are disposed of, in above terms.

R.K. GAUBA
(JUDGE)

MAY 06, 2016
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