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

Date of Decision: 23.05.2016

\+ **MAC.APP. 427/2016 & CM Nos.19511-19512/2016**

RELIANCE GENERAL INSURANCE CO LTD

..... Appellant

Through Mr. Rajeev M Roy, Adv.

versus

HAR DEVI & ORS

..... Respondent

Through None

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

JUDGMENT

R.K.GAUBA, J (ORAL):

1. The insurance company, third respondent before the motor accident claims tribunal (tribunal), is in appeal seeking to assail the judgment dated 20.02.2016 in accident claim case (suit No.29/2014) whereby compensation in the sum of Rs.4,62,839/- has been awarded with interest at 9% per annum in favour of the first and second respondents (claimants) on account of death of their 26 year old son, Kuldeep Kumar, a bachelor, in motor vehicular accident that occurred on 05.03.2013 involving use of water tanker bearing registration No.UP-85AD-9619 (offending vehicle), concededly insured against third party risk with it for the period in question. The grounds on which the insurance company questions the award are three-fold; (i) the deceased himself was responsible for the accident since there is evidence

indicating that he may have consumed alcohol; (ii) that the tribunal wrongly adopted the multiplier of 17 on the basis of age of the deceased, ignoring the fact that the claim was preferred by the parents; and (iii) that the deduction on account of personal & living expenses should have been to the extent of 50% rather than 1/3rd, as factored in by the tribunal.

2. Having heard the learned counsel for the appellant, this Court finds no substance in any of the contentions for the simple reason the insurer forgets that the claim petition before the tribunal had invoked the structured formula prescribed in Section 163A of Motor Vehicles Act, 1988 (MV Act). In a case for compensation based on the said special provision of law, the issue of negligence does not even arise inasmuch as the considerations are on the principle of no-fault liability. According to the second schedule appended to MV Act which comes into play in cases arising under Section 163A, the multiplier has to be chosen as per the age of the deceased and the rule of deduction to the extent of 1/3rd towards personal & living expenses of the deceased applies uniformly.

3. Thus, the appeal being devoid of substance is dismissed with applications *in limine*.

4. The statutory deposit shall be refunded after it is confirmed that the award has been satisfied.

(R.K. GAUBA)
JUDGE

MAY 23, 2016
VLD