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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 27th January, 2016

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MACA No.22/2008

UNITED INDIA INSURANCE CO. LTD. Appellant

Through: Mr. Pankaj Gupta, Adv. for Ms.
Suman Bagga, Adv.

versus

SUDHA RANI &ORS. Respondents

Through: Mr. R. S. Dalal, Adv. for R-1,2,3
& 6.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT

R.K.GAUBA, J (ORAL):

1. This appeal under Section 173 of the Motor Vehicles Act (“the MV Act”) was dismissed at the threshold by a learned single judge of this court by judgment dated 15.01.2008 for the reason that in his opinion, the insurance company could not challenge the quantum of compensation or the findings recorded by the motor accident claims tribunal (“the tribunal”), on the questions of negligence or contributory negligence of the vehicle involved without taking prior permission under Section 170 of the MV Act. The said order of this court, however, was set aside by the Supreme Court by judgment/order dated 24.09.2013 in civil appeal no.8654/2013, *inter-alia*, with reference to the law laid down in *United Insurance Co. Ltd. vs. Shila Datta & Ors.*, (2011) 10 SCC 509.

2. The appeal of the insurance company, thus restored, is contested by the claimants.

3. The claim petition had been filed by the first respondent herein on 12.11.2001 on account of death of Surender Singh in motor vehicular accident that occurred at about 04:30 PM on 17.07.2001. The deceased Surender Singh was statedly riding his scooter bearing registration no.HR-36-8776 when it came to be involved in an accident against motorcycle bearing registration no.KA-19K-3255 (hereinafter after referred to as “the offending vehicle”). The sixth and seventh respondents herein were impleaded as proforma respondents, they being parents of the deceased and, thus, also entitled to compensation. The claim petition was contested mainly by the appellant/insurance company which admitted that there was an insurance cover taken out by the registered owner of the motorcycle (described as the offending vehicle) for the period in question. The deceased was 38 years old at the time of the death working in Indian Coast Guard. The insurance company raised the question of the deceased himself having been negligent and, thus, responsible for the accident. The said contention was rejected by the tribunal. It calculated computation adopting multiplier of 15 and, thus, awarded Rs.18,54,540/- holding the driver, owner and insurance company to be jointly and severally liable.

4. Through the appeal at hand, the insurance company has raised the issue of the deceased being responsible for the accident referring in this context to the FIR which had initially so indicated. Upon perusal of the record of the tribunal, and the view taken thereupon by the tribunal in the impugned judgment, this court finds no substance in the contention

urged by the insurance company in the appeal at hand. As noted by the tribunal, the first information report (“FIR”) was only the initial document to set criminal law justice into motion. The FIR cannot be treated as compendium of the entire set of facts. It leads to investigation and it is the evidence collected during such process which assists the adjudicatory authority in reaching out to the truth.

5. The claimant had examined Surya Prakash Alwa (PW1), an eye witness of the accident. His evidence has been properly appreciated by the tribunal in the light of the other material on record to conclude that the accident had indeed occurred due to the negligent driving on the part of the motorcyclist. For these reasons, the contention that the claim petition should not have been allowed on the principle of the fault liability is rejected.

6. The insurance company in the appeal has also submitted that the tribunal took the yearly dependency as Rs.1,19,436/- and that if the awarded amount were to be invested in fixed deposit receipt, it would fetch interest much more than what was the loss of yearly dependency. This is not the correct way of looking at the computation of compensation. The law is well settled. Having regard to the age of the deceased at the time of the accident, the multiplier adopted was appropriate (*Sarla Verma & Ors. vs. Delhi Transport Corporation & Anr.*, 2009 6 SCC 121) and there is no error in computation.

7. Thus, appeal is devoid of merit and is, accordingly, dismissed.

**R.K. GAUBA
(JUDGE)**

JANUARY 27, 2016/ssc