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

% **Date of Decision: 20th September, 2016**

\+ MAC.APP. 470/2016 & CMs 21492/2016, 32509/2016

NEW INDIA ASSURANCE CO LTD ..... Appellant
Through: Mr. Pankaj Seth, Adv.

versus

GAYATRI & ORS ..... Respondents
Through: Mr. Sunil Kumar Tiwari, Adv. for R-1 and R-2

CORAM:
HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

1. The appellant has challenged the award of the Claims Tribunal whereby compensation of Rs.5 lakh has been awarded to claimants/respondents no.1 and 2.

2. The accident dated 20th February, 2016 resulted in the death of Rahul Kumar. The deceased was aged 13 years at the time of the accident and was survived by his parents.

3. Learned counsel for the appellant submits that the Claims Tribunal has not conducted any inquiry in the matter and therefore, the case be remanded back to the Claims Tribunal for appropriate inquiry.

4. Learned counsel for the respondents no.1 and 2 submits that respondents are entitled to Rs.9,80,000/- according to the principles laid down by this Court in ***Chetan Malhotra v. Lala Ram***, 2016 SCC Online 2981. Learned counsel for respondents no.1 and 2 has no objection to the remand of the case subject to release of amount deposited by the appellant before the Claims Tribunal.

5. In the facts and circumstances of this case, the appeal is allowed and the impugned award dated 19th April, 2016 is set aside. The case is remanded back to the Claims Tribunal for fresh inquiry into the matter.

6. Subject to the outcome of the inquiry, Rs.3,75,000/- deposited by the appellant with the Claims Tribunal along with interest accrued thereon be released to respondents no.1 and 2 in the following manner:

> The Claims Tribunal shall direct the State Bank of India, Saket Court Complex Branch to release Rs.50,000/- to respondent no.1 and Rs.25,000/- to respondent no.2. The balance amount be kept in 5 FDRs of equal amount for the periods 6 months, 1 year, 1½ years, 2 years and 2½ years in the name of respondent no.1

7. The monthly interest on the FDRs shall be paid to respondent No.1 by transferring the same to her individual savings bank account.

8. At the time of maturity, the fixed deposit amount shall be automatically credited in the individual savings bank account of respondent No.1.

9. All the original FDRs shall be retained by State Bank of India, Saket Court Complex Branch. However, the photocopies of the same shall be provided to the claimant/respondent no.1.

10. No cheque book or debit card be issued to the claimant/respondent no.1 without permission of this Court.

11. No loan or advance or pre-mature discharge shall be permitted without the permission of this Court.

12. The parties are permitted to lead evidence before the Claims Tribunal. It is clarified that the Claims Tribunal shall determine the amount payable to the respondents in accordance with law and the amount directed to be released by this judgment shall be adjusted against the fresh award.

13. The parties shall appear before the Claims Tribunal on 19th October,

2016.

14. The statutory amount be refunded back to the appellant.

15. The pending applications are disposed of.

16. Copy of this judgment be given *dasti* to counsels for the parties under signatures of the Court Master.

J.R. MIDHA, J.

SEPTEMBER 20, 2016
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