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

+ **MAC.APP. 568/2016 & CM No.26798-26799/2016**

THE NEW INDIA ASSURANCE COMPANY Appellant
Through: **Ms. Archana Gaur, Adv.**

versus

RANO & ORS Respondents
Through: **None.**

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

% **ORDER**
29.07.2016

CM No.26799/2016

Allowed, subject to just exceptions.

MAC.APP. 568/2016

1. The appellant has challenged the award dated 09th May, 2016 whereby the Claims Tribunal has awarded compensation of Rs.8,14,224/- to respondent No.1 on the limited ground that the deceased was contributory negligent and, therefore, the compensation is liable to be reduced.
2. On 19th February, 2014 at about 02.00 am, the deceased Nitin was crossing the road at Motia Khan Chowk, Sadar Bazar Road, Paharganj, Delhi when he was crushed by truck bearing No.MP 07 HB 4321. The deceased was bachelor aged 22 years working as a rickshaw puller and was survived by his parents who filed the claim petition before the Claims Tribunal.
3. PW-2 Radha, sister of the deceased appeared in the witness box and deposed that the accident was caused due to the rash and negligent driving of the offending truck. In cross-examination, it was put to PW-2 that the

deceased was under the influence of liquor whereupon PW-2 admitted that deceased had consumed small quantity of liquor. PW-2 however denied that the deceased was negligent in any manner. No evidence was led to rebut the testimony of PW-2.

4. The Claims Tribunal held that the accident occurred due to the rash and negligent driving of driver of the offending truck who was charge-sheeted under Sections 279/304A IPC and no evidence had come on record to show any negligence on the part of the deceased.

5. There is no infirmity in the findings of the Claims Tribunal with respect to the negligence of the driver of the offending truck.

6. There is no merit in this appeal which is hereby dismissed.

7. CM No.26798/2016 is also dismissed.

J.R. MIDHA, J.

JULY 29, 2016
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