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

Date of Decision: 18th May, 2016

+ **MAC.APP. 348/2015 & CM No.6808/2015**

UNITED INDIA INSURANCE CO LTD

..... Appellant
Through Mr. Rajesh Dwivedi, Adv.

versus

VINDESHWARI VERMA & ORS

Through None

..... Respondent

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT

R.K.GAUBA, J (ORAL):

1. Harish Chander Verma, aged 59 years and 8 months, (born on 08.05.1953), working as executive engineer (civil) with Central Public Works Department (CPWD) died due to injuries suffered in a motor vehicular accident that occurred on 29.01.2013 involving a bus bearing no. DL 1P C 7662 (bus) of Delhi Transport Corporation (DTC) which was admittedly insured against third party risk with the appellant insurance company (insurer) for the period in question, whereupon accident claim case (Suit No.92/14) was filed by his dependant family members first to fourth respondents (claimants). The tribunal held inquiry and, by judgment dated 19.01.2015, upheld the case of death having occurred due to the negligent driving of the bus. This finding has attained finality as it was not challenged

any further. By the said judgment, the tribunal awarded Rs.58,94,520/- as compensation with interest in favour of the claimants. This includes Rs.57,44,520/- computed as loss of dependency on the basis of salary proved by the claimants, as per pay slip and form 16 (Ex.PW1/1 collectively). The tribunal took into account the income tax deduction and, thus, assessed the net income at Rs.69,377/- per month. It added 15% as future prospects increase and thereupon applying the multiplier of 9 calculated the dependency loss.

2. It is the contention of the insurer which has been burdened with the liability to pay that the choice of multiplier was incorrect. Reference is made by the counsel to second schedule of the Motor Vehicles Act, 1988 (MV Act), which submission is apparently improper in view of the fact that the said part of the law pertains to claims brought on structured formula basis brought under section 163A of MV Act and not to the claim petitions instituted under section 166 MV Act, as at hand.

3. The next submission of the insurer in appeal is that addition of 15% of future prospects was incorrect in view of the dictum in *Sarla Verma (Smt.) & Ors. v. Delhi Transport Corporation & Anr.*, (2009) 6 SCC 121. Noticeably, the tribunal has referred to a later decision in *Rajesh & Ors. v. Rajbir Singh & Ors.*, (2013) 9 SCC 54 wherein a bench of three Hon'ble Judges of the Supreme Court had ruled that it is just and equitable to provide addition of 15% even in cases where victim was in the age group of 50 to 60 years. The case at hand is not one where the victim was self-employed or one who was in receipt of a fixed income, which are the only two categories referred to in *Sarla Verma* (supra) where a different approach is to be taken.

4. In the above facts and circumstances, the appeal is unmerited and, therefore, dismissed.

5. By order dated 28.04.2015 the insurer had been directed to deposit the entire awarded amount with interest from which 80% was allowed to be released, the balance kept in fixed deposit receipt. The Registrar General shall now release the balance as well to the claimants.

6. Statutory amount, if deposited, shall be refunded.

MAY 18, 2016
VLD



(R.K. GAUBA)
JUDGE