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

Date of Decision:18th May, 2016

\+ **MAC.APP. 1063/2014 & CM No.19184/2014**

ORIENTAL INSURANCE COMPANY LTD

..... Appellant

Through Ms. Neerja Sachdeva, Adv.

versus

SUJATA GHILDIYAL & ANR

..... Respondent

Through Ms. Pinki Talukdar, Adv. for R-1

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

JUDGMENT

R.K.GAUBA, J (ORAL):

1. First respondent suffered injuries in motor vehicular accident that occurred on 13.02.2011 involving negligent driving of Maruti car DL 6CH 2197. On her accident claim petition (MAC petition No.275/11), the motor accident claims tribunal (Tribunal) awarded compensation in the sum of ₹4,86,000/- in her favour with interest at 9% per annum calling upon the appellant insurance company (insurer) to pay, it having concededly insured the offending vehicle against third party risk for the period in question. By the appeal at hand, the insurer questions the award on account of loss of earnings for 11 months on the ground the claimant was already on child care leave and, therefore, there had been no actual loss of income.

2. The appeal is found to be wholly frivolous. The claimant did not avail of leave of absence from duty at her employers' place for undergoing treatment. The purpose of she taking leave was apparently to take care of her child. In these circumstances, the loss of value of leave account corresponding to the period of treatment cannot be grudged.

3. The appeal is dismissed with cost of Rs.10,000/- to be paid to the claimant.

4. The insurer had been directed by order dated 21.11.2014 to deposit the entre awarded amount with accumulated interest from which 50% has already been released. The balance lying in deposit shall be released to her. The claimant may realize the cost by appropriate steps before the tribunal.

5. Statutory amount shall be refunded only after the award and cost are duly paid.

R.K. GAUBA
(JUDGE)

MAY 18, 2016
VLD