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

+ **MAC.APP. 516/2015**

BHARTI TOMAR & ORS Appellant

Through: Mr. O P Mannie, Adv.

versus

SAT PRAKASH & ORS (NEW INDIA ASSURANCE CO LTD)

..... Respondent

Through: Krishan Kumar, Adv. for R-1 & 2
Mr. R K Tripathi, Adv. for R-3

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **21.01.2016**

1. In a case arising out of detailed accident reports registered as D-477-478/13, the Motor Accident Claims Tribunal ("the Tribunal") by judgment dated 26.09.2014 awarded compensation in the sum of Rs.13,58,200/- on account of death of Rakesh Tomar in a motor vehicular accident that had occurred on 23.01.2013 in the area of Police Station Vivek Vihar involving bus bearing registration No.DL 1PC 2311. The Tribunal, upon inquiry, found the first respondent, driver of the offending vehicle, to be the principal tortfeasor and held the second respondent owner of the offending vehicle to be vicariously liable. It also held the third respondent (insurer) to be liable on account of the insurance contract covering the third party risk taken out by the owner in respect of the offending vehicle for the period in question.

2. In calculating the compensation, the learned Tribunal adopted the minimum wages payable to an unskilled worker in the State of Uttar Pradesh. This is the sole bone of contention raised through the appeal at hand. The claimants urged that the minimum wages payable to a skilled worker should have been adopted as the deceased was working as a washerman. They also contend that the appropriate method would have been to apply the minimum wages payable in Delhi since the deceased was living in national capital region.

3. The respondents have appeared through their respective counsel on advance notice. All sides have been heard. The record perused.

4. This court finds no substance in the contentions raised. There is no proof that the deceased had acquired any special skills in the trade in which he was working for gain so as to be treated as a skilled workman. Since the deceased was living and working for gain in Ghaziabad, U.P., the minimum wages payable in that State have been rightly invoked.

5. The appeal is unmerited and is dismissed in *limine*.

R.K.GAUBA, J

JANUARY 21, 2016

VLD