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

Decided on: 20th July, 2017

+ MAC.APP. 45/2017 and CM APPL. 1642/2017

M/S NATIONAL INSURANCE CO LTD Appellant

Through: Mr. D.K. Sharma, Advocate

versus

MEETA DEVI & ORS Respondents

Through: Mr. Rishi Pal Singh, Adv. for R-1

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The claim petition (suit no.4290/2016) was filed by Om Prakash for compensation on account of injuries suffered by him in the motor vehicular accident involving a truck bearing no.HR-38G-1411, it being concededly insured against third party risk with the appellant / insurance company.

2. During the pendency of the said proceedings, Om Prakash died. The claim petition was prosecuted further by his legal representatives (first to fifth respondents herein) who were substituted on their request.

3. The Motor Accident Claims Tribunal (Tribunal), by the impugned judgment dated 21.10.2016 awarded compensation in the

total sum of Rs.8,23,000/- with interest at 9% p.a. directing the insurance company to pay though it being given the rights to recover the same from the registered owner and principal *tort feasor* on account of breach of terms and conditions of the insurance policy.

4. The only contention pressed in the appeal relates to the award of Rs.1 Lakh each on account of pain and suffering and loss of enjoyment of life. The learned counsel for the claimants fairly conceded that such awards in the given facts and circumstances were impermissible since they were personal to the victim and would not survive after his death.

5. The award is, thus, reduced to Rs.6,23,000/-. Needless to add, it shall carry interest as levied by the Tribunal.

6. The counsel for the insurance company submits that the amount has already been deposited with the Tribunal. If so, the amount to be released to the claimants shall be in terms of the modification ordered above, the excess to be refunded to the insurance company.

7. The statutory deposit, if made, shall be refunded.

8. The appeal and the pending application are disposed of in above terms.

R.K.GAUBA, J.

JULY 20, 2017

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