$~R-168

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

Decided on: 6th September, 2017

\+ MAC.APP. 71/2010

BAJAJ ALLIANZ GENERAL INS. COMPANY LIMITED .....Appellant

Through: None.

versus

GEETA SHARMA & ORS ..... Respondents

Through: None.

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

JUDGMENT (ORAL)

1. On the claim petition (suit no. 959/2007) which was instituted on 18.10.2005 by the first respondent to seek compensation for the death of her 12 years' old son Gautam in motor vehicular accident that occurred on 25.12.2004 at about 9:45 p.m. due to negligent driving of Wagon R car bearing registration no. DL 6CH 9510, admittedly insured against third party risk with the appellant insurance company, the tribunal, after inquiry, by judgment dated 11.12.2009, granted compensation in the total sum of Rs. 6,48,000/- and directed the insurer to pay with interest. The tribunal referred to the decision of the Supreme Court in *R.K. Malik & Anr. Vs. Kiran Pal & Ors. 2009 ACJ 1924* in computing the compensation awarded in the case of death of a child.

2. The appeal at hand filed by the insurer questions the computation referring, *inter alia,* to the decision of the Supreme Court in *Lata Wadhwa vs. State of Bihar (2001) 8 SCC 197* and *Sarla Verma vs. DTC (2009) 6 SCC 121,* it was admitted and was put in the category of 'regulars' as per order dated 24th May, 2010. When the appeal is taken up for hearing, no one has appeared on behalf of the appellant or the opposite party to assist.

3. This Court after considering the various judgments of the Supreme Court germane to the issue at hand, including the aforementioned judgments, by decision rendered on 13th May, 2016 in a batch of cases led by MAC.APP.554/2010, *Chetan Malhotra v. Lala Ram,* had laid down the method whereby compensation in the cases of death of children is to be determined. It is noted that if the calculations were to be made in accord with the principles set out in the judgment in *Chetan Malhotra* (supra), the amount of compensation awardable in the case at hand would be substantially the same as has been granted by the tribunal by the impugned judgment.

4. Therefore, the appeal is found devoid of substance and is dismissed.

5. By order dated 08.02.2010, the insurance company had been directed to deposit Rs. 3,75,000/- with UCO Bank, as a pre condition to the stay against the execution of the award granted by the tribunal. It was further directed in the said order that an amount of Rs. 4,50,000/- shall be put in fixed deposit receipt for various periods, the balance amount deposited to be released to the claimant by transfer into her saving bank account. The amount kept in fixed deposit

receipts shall be handed over to the claimant. The insurance company will be obliged to satisfy the remainder of the award by requisite deposit with the tribunal within 30 days hereof making it available to be released.

6. The statutory amount shall be refunded after proof is shown of the award having been satisfied.

R.K.GAUBA, J.

SEPTEMBER 06, 2017
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