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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Decided on: 13th October, 2017

+ MAC APPEAL No. 419/2011

NEW INDIA ASSURANCE CO. LTD. Appellant
Through: Mr. Priyadarsi Acharya for Mr.
K.L. Nandwani, Adv.

versus

LAXMI DEVI & ORS. Respondents
Through: None.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA
JUDGMENT (ORAL)

1. Sukhpal Singh Yadav, suffered injuries in a motor vehicular accident that occurred on 18.12.2007, due to negligent driving of motor vehicle bearing registration no. DL 2F FF 0096 and died in the consequence. His wife and other members of the family dependent upon him, they being first to fourth respondents (collectively, the claimants) instituted accident claim case (suit no. 431/2008) on 21.02.2008 seeking compensation under Section 166 of Motor Vehicles Act, 1988 alleging that the accident had occurred due to pnegligent driving of the said vehicle by the fifth respondent. The vehicle was admittedly owned by the sixth respondent and concededly insured against third party risk for the period in question with the appellant insurance company. After inquiry, the tribunal by judgment dated 15.01.2011, accepted the case and granted compensation in the sum of Rs. 15,64,675/-, directing the insurer to pay the same with interest.

2. The appeal by the insurer questions the calculation of loss of dependency which is one of the components in the compensation awarded on the ground that the tribunal has wrongly accepted the evidence of witnesses examined by the claimants particularly Jai Kishore (PW-4), Ram Narain (PW-3) and Charan Singh (PW-5) about the income of the deceased from two sources, one a private employment and other from cultivation. It is the contention of the insurance company that a person in private employment could not conceivably also earn at the same time from agriculture.
3. There cannot be a thumb rule that a person in private employment would not be in a position to earn additionally from cultivation or *vice versa*. Having regard to the evidence of the above-mentioned witnesses, the finding returned by the tribunal is found to be based on sound reasoning calling for no interference.
4. For the foregoing reasons, the appeal is found to be devoid of substance and is dismissed.
5. By order dated 11.05.2011, the insurance company had been directed to deposit the entire awarded amount with the Registrar General of this Court and out of such deposit 50% was allowed to be released to the claimants. The registry shall now release the balance to the claimants in terms of the impugned judgment.
6. The statutory amount shall be refunded to the appellant.

R.K.GAUBA, J.

OCTOBER 13, 2017

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