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

Decided on: 24th August, 2017

\+ MAC.APP. 542/2014

NATIONAL INSURANCE CO LTD ..... Appellant

Through: Mr. D.K.Sharma, Advocate with Mr. P. Acharya, Advocate

versus

VEENA SINGH & ORS ..... Respondents

Through: Mrs. Avnish Ahlawat, Advocate with Ms. Palak Rohmetra, Advocate for R-1 to R-4.

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

JUDGMENT (ORAL)

1. Ramashray Singh, aged 56 years, employed as Account Officer with Controller of Defence Accounts (Air Force) was travelling in bus bearing registration No.DL-1PA-7398. There being no seat available, he was constrained to stand behind the conductor near the front gate. In the area of traffic light at the junction of roads in Sector 1, R.K. Puram, the bus took a sharp turn at high speed as a result of which he lost balance and fell out of the front door of the bus so as to land on the road suffering head injuries, which resulted in his death. An accident claim case (Petition No.315/2013) was instituted by his wife and three sons, they being first to fourth respondents (collectively, the claimants) on 18.01.2012 impleading, besides the driver and owner of the bus, the appellant insurance company (insurer), it being

concededly the insurer against third party risk in respect of the said vehicle.

2. The Motor Accident Claims Tribunal (the Tribunal) after inquiry, by judgment dated 29.01.2014 awarded compensation in the total sum of Rs.36,50,300/- and directed the insurer to pay with interest @ nine per cent (9%) per annum.

3. The insurer has questioned the award by the appeal at hand, which is pressed only on one contention, *viz.* that only the wife of the deceased was dependent on him, all the three sons being major and well-settled in life, this contention being raised on the basis of report of investigator dated 19.04.2014. An application (CM APPL.No. 10324/2014) under Order 41 Rule 27 of the Code of Civil Procedure, 1908 (CPC) has been moved seeking opportunity to prove the said report of investigator.

4. Having heard the learned counsel for the appellant and the counsel for the claimants, this court finds no substance in the prayer for additional evidence. Such opportunity cannot be made available for the asking. There is nothing shown by the appellant as to why the investigation regarding dependency was not undertaken when the claim case was pending inquiry before the tribunal from 18.01.2012 to 29.01.2014. No suggestions to such effect were made when the claimant was adducing evidence. No inquiries were made of the witnesses so as to bring out even otherwise that all the three sons were self-reliant. The tribunal, on the basis of evidence, found that one son

is married and was financially independent and, therefore, excluded his claim from consideration.

5. In the given facts and circumstances, the prayer under Order 41 Rule 27 CPC cannot be accepted. As a natural corollary, the appeal is rendered devoid of merits. It is dismissed.

6. By order dated 02.07.2014, the insurance company had been directed to deposit the entire awarded amount with upto date interest with the Registrar General of this court, out of which seventy per cent (70%) was allowed to be released to the claimants and the balance kept in fixed deposit with UCO Bank, Delhi High Court Branch. The balance shall now be released to the claimants.

7. The statutory amount shall be refunded to the appellant insurance company.

8. The appeal stands disposed of in above terms.

9. *Dasti.*

R.K.GAUBA, J.

AUGUST 24, 2017
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