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

Decided on: 25th July, 2017

+ **MAC APPEAL No. 421/2009**

SAVITRA PANDEY & ORS.

..... Appellants

Through: None.

versus

RAJPATI DEVI & ORS.

..... Respondents

Through: Mr. A.K. Soni, Adv. for R-2.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The appellants had instituted claim case (suit no. 275/2007) on 02.07.2007 for compensation on account of death of Ghanshyam Pandey on 15.02.2007, invoking the structured formula on the principle of no fault liability under Section 163-A of Motor Vehicles Act, 1988, impleading, amongst others, the second respondent it being the insurer of vehicle of HR 46 B 0992, on account of involvement of which the accident leading to death had occurred. The tribunal held inquiry and, by judgment dated 27.02.2009, awarded compensation in the total sum of Rs. 4,57,400/-, it inclusive of Rs. 4,22,400/- towards loss of dependency, this on the basis of notional earning of Rs. 3,300/, in absence of any formal proof of income, adopting the multiplier of 16, after deduction of 1/3rd towards personal & living expenses.

2. The appeal was filed seeking enhancement of compensation in August, 2009. It was admitted and put in the category of 'regulars' by order dated 05.04.2010.
3. No one has appeared for the appellants when the appeal is taken up for final hearing.
4. Heard the learned counsel for the insurance company (second respondent). Having gone through the record, this Court finds no substance in the appeal. The compensation has been computed by the tribunal scrupulously following the dispensation in the second schedule appended to the Motor Vehicles Act, 1988. Since there was no formal proof of income, the tribunal was constrained to go by the notional income. The second schedule to Motor Vehicles Act, 1988, requires 1/3rd to be deducted on account of personal expenses of the deceased. Therefore, the same cannot be grudged. The multiplier has been adopted according to the prescription in the schedule. The general damages which have been included are rather more generous than the law would permit.
5. The appeal is, therefore, dismissed.

R.K.GAUBA, J.

JULY 25, 2017

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