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

*Decided on: 15<sup>th</sup> September, 2017*

+ **MAC APPEAL No. 410/2010**

**SATYA NARAYAN KAMTI ETC.** ..... Appellants

Through: **Mr. Jatinder Kamra, Adv.**

versus

**RAJBIR SINGH ETC.** ..... Respondents

Through: **Mr. Manoj R. Sinha, Adv. for  
R-3/Insurance company.**

**CORAM:**

**HON'BLE MR. JUSTICE R.K.GAUBA**

**JUDGMENT (ORAL)**

1. The appellants had pressed their claim petition (petition no. 643/2008) instituted before the motor accident claims tribunal on 28.04.2007 to seek compensation on account of death of Deepak Kumar @ Deepak Kamti that occurred on 10.03.2007, alleging that the fatal injuries were suffered by him in the motor vehicular accident due to negligence on the part of the first respondent, the driver of the bus bearing registration no. DL 1PB 3286, it being a vehicle registered in the name of the second respondent and admittedly insured against third party risk with the third respondent. The tribunal held inquiry and on the basis of evidence led, by judgment dated 17.05.2010, returned finding that the claimants had not been able to prove

negligence on the part of bus driver. For this reason, the claim petition was dismissed.

2. Though the appeal was filed to reiterate that the bus driver was negligent, at the hearing, the learned counsel for the appellants, on instructions, submitted that the claimants may be allowed to prosecute the claim case for compensation under structured formula on principle of no fault liability in terms of Section 163A Motor Vehicles Act, 1988, since there is enough evidence to show that the death had occurred in a motor vehicular accident that involved the use of aforementioned vehicle.

3. On being asked, the learned counsel for the third respondent, who is present, submitted, that he leaves the matter to the discretion of the court.

4. The prayer is granted. The impugned judgment whereby the claim case was dismissed without any award of compensation is set aside. The claim petition on which the impugned judgment was passed is directed to be treated as one brought under Section 163A Motor Vehicles Act, 1988. The tribunal shall hold further inquiry in this light permitting the claimants to lead further evidence followed by similar opportunity to the contesting parties to lead evidence in rebuttal, if any. The tribunal shall take up the case for further proceedings in light of these directions on 25<sup>th</sup> October, 2017.

5. The insurance company is present through counsel and is directed to appear on the aforesaid date before the tribunal. The tribunal shall issue requisite processes to the other respondents before proceeding further.

6. The appeal is disposed of in above terms.

**R.K.GAUBA, J.**

**SEPTEMBER 15, 2017**

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