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

Decided on: 19th July, 2017

+ MAC.APP. 566/2014 and CM APPL.10494/2014 (stay)

THE ORIENTAL INSURANCE CO LTD Appellant

Through: Mr. A.K. Soni, Adv.

versus

ILMO DEVI @ BIRMO DEVI & ORS Respondents

Through: Mr. A.S. Rana, Adv. for R-1.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The first respondent had suffered injuries in motor vehicular accident that occurred on 23.06.2008 and was rendered permanently disabled. On her claim petition (MACP No.335/2009), the Motor Accident Claims Tribunal (the Tribunal) returned finding that the injuries had been suffered due to negligent driving of vehicle bearing No.DL-1PA-6495, it concededly being insured against third party risk with the appellant insurance company. The Tribunal assessed the compensation and awarded Rs.9,09,420/- with interest in her favour calling upon the insurance company (the appellant) to pay.

2. The insurance company has come up in appeal and presses it on the ground the calculation of loss of future earnings on the basis of finding that the functional disability was 70% was not proper.

3. The first respondent has died during the pendency of the appeal and, thus, has been substituted by her legal heirs.

4. Having heard the learned counsel on both sides, this court is of the opinion that the appeal lacks merits and, therefore, must be dismissed. The claimant had suffered amputation of her right upper limb. The medical opinion through disability certificate (Ex.PW-1/5) had assessed the disability to be permanent to the extent of 80%. The deceased victim was working as a maid-servant and use of the hands was the means of her source of earning. In similarly placed case *Neerupam Mohan Mathur vs. New India Assurance Company Limited*, (2013) 14 SCC 15, similar disability was treated as leading to 70% functional disability.

5. In above view, the appeal is dismissed.

6. By order dated 28.07.2014, eighty percent (80%) of the awarded amount with proportionate interest was released. The balance amount lying with the tribunal shall also now be released in favour of the legal heirs in equal proportions with corresponding interest.

7. Pending application also stands disposed of.

8. The statutory amount, if deposited, shall be refunded to the appellant.

R.K.GAUBA, J.

JULY 19, 2017/vk