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

Decided on: 19th September, 2017

+ MAC.APP. 470/2010

UNITED INDIA INSURANCE CO. LTD. Appellant
Through: Mr. Sameer Nandwani and Mr. P.
Acharya, Advocates

versus

RAVINDER KUMAR SOOD & ORS. Respondents
Through: None

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

JUDGMENT (ORAL)

1. Akanksha Sood, a bachelor, aged about 25 years, having attained the Degree of Bachelor of Business Administration, employed at a gross annual salary of Rs.3,04,000/- suffered injuries in a motor vehicular accident that occurred on the intervening night of 25.07.2003 and 26.07.2003 due to the negligent driving of a truck trailer bearing registration no.HR-29G-3067 and died in the consequence. It may be added here that the deceased was travelling at the time of the accident in Ambassador car bearing registration no.HR-55BT-1239 which had been hit by the said truck from wrong side, this becoming the cause of the accident. The parents and siblings of the deceased, they being first to third respondents

(collectively, the claimants) instituted accident claim case (suit no.640/2003) on 10.11.2003 seeking compensation .

2. The Motor Accident Claims Tribunal (Tribunal) held inquiry and, by judgment dated 16.03.2010, returned a finding that the accident had occurred due to the negligent driving of the truck, the appellant / insurance company being the insurer of the truck, having been fastened with the liability to pay the compensation, which was determined in the total sum of Rs.22,07,500/-, it inclusive of loss of estate, funeral expenses and loss of love and affection.

3. The insurer of the truck is in appeal to question the impugned judgment on the ground that the finding on the issue of negligence is incorrect and that the tribunal committed error by factoring in the element of future prospects of increase in income.

4. Both the contentions of the appellant must be rejected. It is noted that the tribunal has gone by the rule of *res ipsa loquitur*. The facts and circumstances relating to the accident were brought out by the evidence adduced, they clearly showing that the car in which the deceased was travelling had been hit by the truck from wrong side. Noticeably, no effort was made, not even by the appellant / insurer, to bring on record the version to the contrary, from the side of the truck driver. In these circumstances, the finding returned by the tribunal does not call for any interference.

5. It is noted that the claimants had proved the regular employment of the deceased with Daksh E Services Pvt. Ltd. (vide Ex. PW-1/4). Having regard to the terms and conditions of the said engagement and given the educational qualifications commensurate

with the post she held, irrefutable evidence showing prospects of increase in the income in future had been brought out which could not have been ignored. [see *United India Insurance Co. Ltd. v. Kamla & Ors.*, MAC.APP. 548/2013, decided on 28.03.2016]

6. In above view, the appeal of the insurer is found to be devoid of substance. It is dismissed.

7. By order dated 13.08.2010, the appellant had been directed to deposit the entire awarded amount with interest and from out of such deposit, 50% (fifty percent) was allowed to be released to the claimants. The balance shall now be released to them in terms of the impugned judgment.

8. The statutory amount shall stand forfeited as costs in favour of the Delhi High Court Legal Services Committee.

9. The appeal is disposed of in above terms.

SEPTEMBER 19, 2017

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R.K.GAUBA, J.