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

Decided on: 22nd August, 2017

\+ MAC.APP. 338/2016 & CM 29769/2017 (early hearing)

RAJENDRA SINGH SETHIA ..... Appellant
Through: Ms. Swati Puri, Adv.

versus

LATE MOHAN KUMAR & ORS ..... Respondents
Through: Mr. Pankaj Gupta for Ms. Suman Bagga, Advocate for R-2.

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

JUDGMENT (ORAL)

1. The appellant's wife Sonia Sethia, died in motor vehicular accident that occurred on 27.02.2012, involving negligent driving of motor vehicle described as Swift Desire bearing registration no. HR 23D 8558 driven by the first respondent (since deceased), it admittedly being insured against third party risk with second respondent (insurer).

2. The tribunal held inquiry and, by judgment dated 20.02.2016, awarded compensation in the sum of Rs. 18,98,000/-, fastening the liability on the insurance company, it being called upon to pay the said amount with interest @ 9% per annum excluding the period 07.11.2013 to 12.01.2015.

3. The appeal is pressed at the hearing on two grounds; one that there is no award under the head of loss of dependency and, the

second, that it was unfair to exclude the period of 07.11.2013 to 12.01.2015 for levy of interest.

4. The first contention must be rejected with the simple observation that the tribunal has made the award under the head of loss of estate which was actually based on calculations of loss of dependency. The second contention deserves to be accepted. The proceedings recorded by the tribunal during the course of inquiry do show that the claimant did take some adjournments for adducing evidence in support of the claim petition. But then, the delay also occurred for reasons of adjournments taken by the other parties. It is not proper to single out the claimant as the sole cause for belated decision.

5. The direction of the tribunal denying the benefit of interest for the period 07.11.2013 to 12.01.2015 is therefore, set aside. For clarity it is directed that the appellant will be entitled to interest on the awarded amount from the date of filing of the petition (22.05.2012) till realization.

6. The appeal and the pending application are disposed of with above directions.

7. The insurance company is directed to satisfy the award, as modified, by requisite deposit with the tribunal within thirty days, making it available to be released.

8. *Dasti.*

R.K.GAUBA, J.

AUGUST 22, 2017/nk