$~14 & 15 *(common order)*

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

Decided on: 22nd August, 2017

\+ MAC.APP. 150/2016

RELIANCE GENERAL INSURANCE CO LTD..... Appellant

Through: Mr. A.K. Soni, Advocate

versus

SUMAN & ORS ..... Respondents

Through: Mr. Partap Singh, Advocate for R-1 to R-4.

\+ MAC.APP. 684/2016 and CM APPL.31497/2016

SUMAN & ORS ..... Appellants

Through: Mr. Partap Singh, Advocate

versus

DEEPAK KUMAR & ORS ..... Respondents

Through: Mr. A.K.Soni, Advocate for R-3.

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

JUDGMENT (ORAL)

1. The accident claim case (Suit No.428/2009) was instituted by the appellants of MAC APP.684/2016 seeking compensation on account of death of Ramesh Singh Bharti, in a motor vehicular accident that occurred on 08.03.2009, involving negligent driving of Honda City car bearing registration No.DL-3C-AK-7053, which was admittedly insured against third party risk with Reliance General

Insurance Company Limited, appellant in MAC APP.150/2016. The said claim petition resulted in judgment dated 21.12.2015 of the Motor Accident Claims Tribunal (the tribunal) whereby compensation in the sum of Rs.9,53,188/- was awarded.

2. Both the claimants and the insurer, feeling aggrieved, have come up with their respective appeals, the contention of the insurer being that the award is unduly high, since the element of future prospects was wrongly added, the grievance of the claimants being that the income of the deceased was not correctly computed, the evidence led through Deepak Kumar (PW-7) having been wrongly rejected, the income having been unfairly assumed with the help of minimum wages.

3. At the stage of appeal, the claimants submitted that they are in a position to muster further evidence, particularly in the form of tax deduction certificate (TDS) issued by the employer and the previous salary records, which is irrefutable and would corroborate the evidence of PW-7.

4. After some hearing, the learned counsel on both sides fairly agreed that the proper course would be to give one more opportunity to the claimants.

5. In view of the above, the appeals are allowed. The impugned judgment is set aside. The claim case is remanded for further inquiry to the tribunal in which claimants will be given additional opportunity to lead evidence on the issue of income of the deceased followed by

opportunity to lead evidence in rebuttal, if any, to the contesting parties.

6. The parties shall appear before the tribunal on 20th September, 2017.

7. In terms of order dated 17.02.2016 (in MAC APP.150/2016), the insurance company had deposited the entire awarded amount with upto date interest with the tribunal, out of which fifty per cent (50%) has already been released. The amount already received by the claimants will be subject to adjustment against the award that is to be passed afresh by the tribunal. The balance lying in deposit shall presently be refunded with corresponding interest to the insurance company.

8. The statutory amount shall also be refunded to the insurance company.

9. Both the appeals stand disposed of in above terms.

10. *Dasti.*

R.K.GAUBA, J.

AUGUST 22, 2017
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