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

Decided on: 24th July, 2017

\+ MAC.APP. 404/2009

NATIONAL INSURANCE COMPANY LTD...... Appellant
Through: Mr. D.K. Sharma, Advocate

versus

VEENA VIRGENIA LUKE & ORS. ..... Respondents
Through: Mr. O.P. Mannie, Advocate R-1 & R-4

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

JUDGMENT (ORAL)

1. Mr. Noel Gladwin Luke, aged 46 years, died in a motor vehicular accident that occurred on 23.05.2006, statedly on account of negligent driving of truck bearing registration no.HR-63-3914, the appellant insurance company having issued insurance policy covering third party risk in its respect. On the claim petition of his widow and children (first to fourth respondents or "the claimants"), the Motor Accident Claims Tribunal (the tribunal), after inquiry, rendered its judgment on 18.05.2009 and awarded compensation in the total sum of Rs.19,72,527/- with interest directing the insurance company to pay.

2. The insurance company, by the appeal at hand, questions the petition of loss of dependency submitting that the income assumed on

the basis of income tax return (ITR), Ex.PW-2/13, was wrong since such ITR had been submitted after the accident on 30.08.2006. The assumption made by the tribunal as to the income, however, noticeably, was not only on the basis of ITR, but also taking into account proof as to the expenditure incurred by the deceased including on the up keeping of his family and educational pursuits of his children. The said consideration justifies the conclusions reached.

3. Therefore, there is no error in the computation. The appeal is devoid of substance and is dismissed.

4. A part of the amount deposited by the insurance company in terms of the interim order has already been released. The balance shall also be released to the claimants in terms of the impugned judgment.

5. The appeal is disposed of in above terms.

R.K.GAUBA, J.

JULY 24, 2017
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