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

Decided on: 25th September, 2017

+ **MAC.APP. 283/2015 and CM 34699/2017 (early hearing)**

SHIKHA JAIN

..... Appellant

Through: Mr. S.S. Jain, Advocate

versus

NATIONAL INSURANCE CO.

THR MANAGER

..... Respondent

Through: None

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. On the accident claim case (suit no.723/2011) of the appellant herein, instituted on 08.08.2011, the Motor Accident Claims Tribunal (Tribunal), by judgment dated 30.04.2013, had awarded total compensation in the sum of Rs 22,60,083/- in their favour fastening the liability on National Insurance Company (respondent). The insurance company had challenged the said judgment and award by MACA 776/2013. During the pendency of the said appeal of the insurer, the appellants herein filed cross-objections (CM 775/2015) which were directed to be registered as an independent appeal by order dated 09.02.2015. The appeal at hand is the appeal registered on the basis of the said cross-objections.

2. Both the insurance company's appeal and the appeal at hand of the claimants were taken up together on 01.10.2015 and by identical orders passed on 08.04.2016, they were directed to be shown in the list of 'regulars' to come up on their own turn. However, on application of the claimants (CM 27799/2016), the appeal of the insurance company was taken up out of turn for early hearing. It eventually came to be decided by judgment dated 20.02.2017 in the presence of the claimants represented by their counsel, who is also the counsel present today.

3. By the aforesaid judgment dated 20.02.2017, the compensation was re-assessed by the learned single Judge who decided the appeal of the insurer, the amount of compensation having been reduced to Rs.19,63,525/-, the liability being fastened on the insurer.

4. The appeal at hand pointing out some error in the calculation by the tribunal was not pressed when the appeal of the insurer was being heard and adjudicated upon. In the given facts and circumstances, this appeal cannot survive as the compensation has already been re-visited by the appellate court.

5. The appeal is dismissed. The pending application stands disposed of.

R.K.GAUBA, J.

SEPTEMBER 25, 2017

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