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

Decided on: 25th July, 2017

+ **MAC APPEAL No. 452/2009**

RAJASTHAN STATE ROAD TRANSPORT CORP. & ANR.

..... Appellants

Through: None.

versus

SITA & ORS.

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The first to fourth respondents had instituted accident claim case (suit no. 177/1996) on 29.02.1996 seeking compensation on account of death of Kishore Kumar in a motor vehicular accident that had occurred on 15.12.1995. It was stated that the said accident involved bus bearing no. RJ 02P 0342 of the first appellant, it being driven at the relevant point of the time by the second appellant. The claim petition invoked Section 166 of Motor Vehicles Act, 1988 to seek compensation on the principle of fault liability. It was resisted by the appellants contending that it was the deceased driving his scooter who had struck against the rear wheel of the bus rather than the bus driver being negligent. The tribunal decided the claim petition, by

judgment dated 24.04.2009, returning a finding that the accident had occurred due to involvement and use of the bus of the appellants. It, however, converted the case into one under Section 163-A of Motor Vehicles Act on the principle of no fault liability, with reference to decision of this Court in *New India Assurance Co. Ltd. vs. Amru Ram & Ors.* in MAC Appeal No. 533/2008 and awarded compensation following the principles of second schedule of the Motor Vehicles Act, 1988 fastening the liability on the appellants.

2. The present appeal was filed with the contentions that the judgment of the tribunal is based on conjectures and surmises and there was no negligence on the part of bus driver and, therefore, the award is unjust and unfair.

3. Notice on the appeal was issued and by order dated 08.10.2009. The appeal was admitted and directed to be listed in due course by order dated 13th July, 2010. At the hearing, there is no appearance on behalf of the appellants.

4. Having perused the tribunal's record, this Court finds no substance in the contentions urged. The tribunal followed the law laid down by this Court in the case referred and converted the claim case into one under Section 163-A of Motor Vehicles Act, 1988. In a claim case under that provision of law, the issue of negligence is irrelevant.

5. In above view, the appeal is dismissed.

R.K.GAUBA, J.

JULY 25, 2017

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