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

Decided on: 9th August, 2017

+ MAC.APP. 481/2009

NATIONAL INSURANCE COMPANY LIMITED... Appellant

Through: Mr. Pradeep Gaur, Advocate

Versus

SHRI TEK CHAND & ORS.

.... Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. Amar @ Pankaj @ Kaka, then aged 19 years, a bachelor son of the first and second respondents herein (collectively, the claimants) died in a motor vehicular accident that occurred on 01.01.2008 involving vehicle registration No.DL-7CE-6990, it admittedly being insured against third party risk with the appellant insurance company. The accident claim case (Suit No.21/2008) was instituted seeking compensation invoking no fault liability on the structured formula under Section 163-A of the Motor Vehicles Act, 1988.

2. The Motor Accident Claims Tribunal (the tribunal), by judgment dated 17.07.2009, returned finding confirming involvement and use of the said motor vehicle in the accident leading to fatality and awarded compensation in the total sum of Rs.5,15,680/-.

3. The insurance company, on which the liability has been fastened, has come up in appeal questioning the method of

computation, taking exception to the element of future prospects to the extent of fifty per cent (50%) being added over and above the notional income assessed on the basis of minimum wages.

4. It is noted that the tribunal while calculating the compensation committed another error by making deduction to the extent of fifty per cent (50%) on account of personal and living expenses which, in a case under Section 163-A of the Motor Vehicles Act, could have been only to the extent of one-third. It is also noted that the proper multiplier as per second schedule appended to the Motor Vehicles Act in the case in hand would have been 16 rather than 15 as invoked by the tribunal. Thus, properly calculated, loss of dependency would work out to $(3633 \times \frac{2}{3} \times 12 \times 16)$ Rs.4,65,024/-.

5. Adding other components of non-pecuniary heads, the award made by the tribunal is very marginally on the higher side. In this view, this court would refrain from making any interference in the impugned award, particularly as amount of compensation with interest which was deposited by the insurance company in terms of the earlier interim orders was released, with detailed directions, by order dated 23.12.2009 and has already reached the hands of the claimants.

6. The appeal is dismissed.

7. Statutory amount shall be refunded to the appellant.

R.K.GAUBA, J.

AUGUST 09, 2017

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