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

Decided on: 21st August, 2017

+ MAC.APP. 419/2017 and CM APPL.16208/2017 (delay)

BIRJESH & ORS

..... Appellants

Through: Mr. Shekhar Aggarwal, Advocate
with Mr. Suresh Kumar, Advocate

versus

ANIL & ORS (NATIONAL INSURANCE CO LTD)

..... Respondents

Through: Mr. Shoumik Mazumdar, Advocate
for R-3.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. Ravi, 19 years old, a bachelor, statedly earning his livelihood as a labourer, died in a motor vehicular accident that occurred on 28.04.2015 due to negligent driving of truck bearing registration No.HR-55K-3503, which was admittedly insured against third party risk with the third respondent (insurer). His mother and three siblings, they being the appellants herein, instituted accident claim cases (MAC No.11446/2016). It appears some other claim petitions had also come up before the tribunal relating to the same accident. They were clubbed together and, by common judgment dated 08.11.2016, compensation in the case of death of Ravi was granted in favour of the appellants in the sum of Rs.7,56,200/-, the liability having been fastened against the insurer.

2. The appellants submit that the tribunal fell into error while calculating the loss of dependency by deducting fifty per cent (50%) towards personal and living expenses and adopting the minimum wages of unskilled worker as prevalent in the State of Uttar Pradesh. Their contention is that since the deceased was survived by three siblings, deduction on account of personal and living expenses should have been to the extent of one-third and that since the accident had occurred in Delhi, the minimum wages payable to a workman in Delhi should have been the bench mark.

3. The appeal is found devoid of substance on both grounds.

4. The pleadings and the evidence clearly showed that the deceased was a native of District Baghpat, U.P. He was returning in the truck to Baghpat, U.P. It is clear from the material on record that he was gainfully employed in U.P. The fact that accident had occurred in Delhi would not regulate the choice of the minimum wages. The fact that the deceased was a bachelor, the deduction on account of personal and living expenses to the extent of fifty per cent (50%) is in accord with the ruling of the Supreme Court in *Sarla Verma (Smt.) & Ors. v. Delhi Transport Corporation & Anr.*, (2009) 6 SCC 121.

5. Dismissed.

6. Pending application also stands disposed of.

R.K.GAUBA, J.

AUGUST 21, 2017

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