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

Decided on: 23rd October, 2017

\+ MAC.APP. 1153/2012

RELIANCE GENERAL INSURANCE CO LTD..... Appellant
Through: Mr. Pankaj Seth, Adv.

versus

RAM SANJEEVAN AND ORS ..... Respondents
Through: Mr. Gaurav Kajla & Mr. Navneet Sharma, Adv. for R-1 & 2.

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

JUDGMENT (ORAL)

1. The impugned judgment dated 14.09.2012 in the accident claim case (MACT No. 71/2012) was passed by the motor accident claims tribunal granting compensation in favour of the first and second respondents (collectively, the claimants) only on the basis of detailed accident report (DAR) submitted by the police in the context of investigation into first information report (FIR No. 457/2011) of police station Model Town, Delhi, the subject matter whereof is the motor vehicular accident that had occurred on 07.12.2011 in which Dharmender died, giving rise to the cause of action claimed in the proceedings before the tribunal. It is pointed out that the insurance company had responded to the notice on the DAR by submitting legal offer to pay Rs. 4,47, 604/- which was not acceptable to the claimants.

The legal offer having been rejected, the tribunal proceeded to grant the award, holding the driver of the offending vehicle guilty of negligence and calculating the loss of dependency on the basis of information gathered by the police during its investigation, fastening the liability in the sum of Rs. 11,38,968/- against the insurer.

2. After some hearing, the learned counsel representing the claimants fairly conceded that the procedure followed by the tribunal cannot be approved of since no evidence was led either to prove the involvement of the offending vehicle or the negligence on the part of its driver or even to substantiate the facts on the basis of which the loss of dependency was worked out. He, thus, requested that while the appeal may be allowed and the impugned judgment set aside, the matter may be remitted to the tribunal for further inquiry so that appropriate evidence can be adduced.

3. The appeal is allowed. The impugned judgment is set aside. The claim case of the first and second respondents is remitted to the tribunal for proper inquiry and fresh adjudication on the basis of evidence to be formally adduced for such purpose. The parties shall appear before the tribunal on 20th November, 2017.

4. The amount deposited by the insurance company in terms of the earlier orders and the statutory deposit shall be presently refunded.

5. It appears that the claimants are septuagenarian, the claim of compensation being on account of death of their bachelor son. The matter arising out of their claim is now five years old. In these circumstances, it is necessary that the case is decided at the earliest. The tribunal is, thus, requested to hold expeditious proceedings and

decide the claim case at an early date, preferably within six months from the date of first appearance of the parties before it, as fixed above.

R.K.GAUBA, J.

OCTOBER 23, 2017
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