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

Decided on: 08th November, 2017

+ **MAC.APP. 1132/2011**

**RAJASTHAN STATE ROAD TRANSPORT CORPORATION
& ANR.**

..... Appellants

Through: Dr. Ritu Bhardwaj, Advocate

versus

RAMESH CHAND VERMA & ANR.

..... Respondents

Through: None

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The accident claim case (suit no.649/2009) was instituted on 29.09.2009 by the first and second respondents (collectively, the claimants) seeking compensation under Sections 166 and 140 of the Motor Vehicles Act, 1988 on account of death of their son Mohit Verma, then aged 23 years, in a motor vehicular accident that took place on 08.06.2009 on the averments that it involved collision between the motorcycle on which the deceased was riding on one hand and a bus bearing registration no.RJ-18PA-1506 of the appellants on the other. The claimants would attribute negligent driving on the part of the second appellant (driver).

2. On the basis of the inquiry held, the Motor Accident Claims Tribunal (Tribunal), by its judgment dated 15.07.2011, upheld the case for compensation holding the bus driver responsible. It awarded

compensation in the total sum of Rs.6,75,000/- and burdened the liability to pay on the appellants with interest, such amount inclusive of award under the head of loss of dependency calculated on the notional income of Rs.5,000/- worked out with the help of minimum wages payable during the relevant period.

3. The appellants filed the present appeal questioning the finding on the issue of involvement of the bus on one hand and the negligence on the part of its driver on the other. On perusal of the tribunal's record, this court finds that the tribunal has applied the principle of *res ipsa loquitur* and on that basis reached the conclusions about the involvement and negligence. The said finding does not call for any interference particularly against the fact that upon the interim award under Section 140 of the Motor Vehicles Act having been granted by order dated 21.09.2010 on the basis of finding of fact about the involvement, the appellants did not put in any challenge and paid the said amount without demur, it, therefore, reaching finality.

4. The appellants also question the dependency loss referring in this context to the admission of the first claimant (PW-1) that he was not making the payment to the deceased son when he would assist him in his business. It may be that the father was not making any direct payment to the deceased son for the services rendered in the shop but that does not mean that there is no value to the services given.

5. The appeal, is thus, devoid of substance and is dismissed.

6. By order dated 05.01.2012, the appellants had been directed to deposit the entire awarded amount with up-to-date interest with the Registrar General, and by subsequent order dated 14.05.2012, fifty

percent (50%) of the awarded amount was released. It is noted that the appeal came to be dismissed in default for non prosecution by order dated 25.11.2013 when the remainder in deposit was also allowed to be released. In these circumstances, no further directions on this score are called for.

7. The statutory amount shall be refunded to the appellants.
8. The appeal is disposed of in above terms.

NOVEMBER 08, 2017
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R.K.GAUBA, J.