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

Decided on: 31st August, 2017

+ **MAC APPEAL No. 831/2016**

SBI GENERAL INS. CO. LTD. Appellant
Through: **Mr. Amit Kr.Maihan, Adv.**

versus

USHA RANI & ORS. Respondents
Through: **Mr. D.K. Sharma, Adv. for R-1
& 2.**

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

JUDGMENT (ORAL)

1. In the accident claim case (petition no. 163/2014) instituted by the first respondent (claimant) on 10.07.2014, seeking compensation on account of death of her son Abhishek Arora, the tribunal, by judgment dated 29.04.2016, has awarded compensation in the total sum of Rs. 27,60,500/-, fastening the liability on the appellant insurance company (insurer), the said amount inclusive of loss of dependency calculated on the income of Rs. 44,200/- per month on the basis of the statement of Munish Chauhan (PW-2), Senior Manager (HR), of Apport Construction Pvt. Ltd. who tendered document (mark A) purporting to be copy of the appointment letter of the deceased with the said entity.

2. The insurer, by the appeal at hand, questions the impugned judgment on the ground the evidence of PW-2 could not have been treated as sufficient to bring home the employment of the deceased with the said entity in question or the salary drawn therefrom.

3. After some hearing, the learned counsel for the claimant fairly conceded that proper evidence requires to be adduced on the afore-said aspect. He, thus, while conceding that the appeal may be allowed, requested that the matter may be remitted to the tribunal for fresh opportunity to be afforded for proper evidence to be brought on record.

4. The appeal is allowed. The impugned judgment is set aside. The claim case is remitted to the tribunal for further inquiry in the course of which claimant would be granted opportunity to lead additional evidence. After such opportunity has been given, the contesting parties shall be given opportunity to lead evidence in rebuttal, if any. After such exercise has been completed, the tribunal will render a fresh judgment in the matter. All contentions of the respective parties are reserved and may be agitated before the tribunal.

5. The parties shall appear before the tribunal on 21st September, 2017.

6. The insurance company was directed by order dated 18.10.2016 to deposit Rs. 20 lakhs with upto date interest @ nine per cent (9%) with the UCO Bank, Delhi High Court Branch. Upon such deposit, Rs. 2 lakhs was released to the claimant in terms of order dated

06.07.2017. The amount already received by the claimant shall be liable to be adjusted against the award that may be passed by the tribunal in the fresh judgment to be rendered. The amount lying in the fixed deposit shall presently be refunded to the appellant.

7. The statutory deposit shall be refunded.

AUGUST 31,2017

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R.K.GAUBA, J.

