$~R-436

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

Decided on: 8th November, 2017

\+ MAC APPEAL No. 1170/2011

NATIONAL INSURANCE COMPANY. ..... Appellant
Through: Mr. Shoumik Mazumdar, Adv.

versus

LALATI DEVI & ORS. ..... Respondents
Through: None.

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

JUDGMENT (ORAL)

1. Bindeshwar Mehta, then aged 38 years, suffered injuries in motor vehicular accident that occurred on 25.07.2008 due to negligent driving of Tata Tempo 407, bearing registration no. DL 1LC 2503 and died in the consequence. The said vehicle was admittedly insured against third party risk with the appellant (insurer) for the period in question. His wife and six other members of the family instituted accident claim case (suit no. 406/2008) on 03.09.2008. The tribunal after inquiry, by judgment dated 22.09.2011, held that the accident had been caused leading to the death on account of negligent driving of the said vehicle by eighth respondent (Sukhbir Singh). The vehicle was admittedly registered in the name of ninth respondent (Vijay Pal) at whose instance it had been insured by the insurer. The tribunal awarded compensation in the sum of Rs. 25,43,368/-, burdening the

liability on the insurer, the said amount inclusive of Rs. 24,58,368/- towards loss of dependency.

2. It is noted that the tribunal accepted the evidence led by the claimants by calling upon Deenbandhu, Manager (HR) (PW-4) of Apex Logistics to the effect that the deceased was employed as "chargehand" by the company and deployed at IGI Airport, Terminal 3, Delhi, his salary being Rs. 15,522/- per month. The insurer, by the appeal at hand, has submitted that such assessment was erroneous, as a daily wager could not have received such amount, the minimum wages being (Rs. 3744) only. This plea must be rejected as the evidence of PW-4 had clearly established the employment and earnings of the deceased on the basis of which the tribunal has computed the compensation.

3. The appeal is, thus, wholly devoid of substance and is dismissed.

4. By order dated 23.12.2011, the insurance company had been directed to deposit 60% of the awarded amount with interest with the Registrar General. By order dated 23.05.2012, the said amount was permitted to be released to the claimants. The insurer shall satisfy the balance amount by requisite deposit with the tribunal within thirty days.

5. The statutory amount shall be refunded after proof of the award having been satisfied is furnished.

R.K.GAUBA, J.

NOVEMBER 08, 2017/nk