$~R-677

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

Decided on: 8th December, 2017

\+ MAC. APP. 1234/2012 & CM No.20248/2012

RELIANCE GENERAL INSURANCE COMPANY LIMITED
..... Appellant
Through: Mr. A.K. Soni, Advocate

versus

RENU SHARMA & ORS. ..... Respondents
Through: Ms. Kavita Tyagi, Advocate with Mr. Navneet Goyal, Advocate for R-1 to R-4.

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

JUDGMENT (ORAL)

1. The accident claim case (Suit No.95/11), instituted on 06.01.2011, by the first to fourth respondents (collectively, the claimants) prayed for award of compensation under Section 166 and 140 of the Motor Vehicles Act, 1988 on account of death of Manoj Sharma, in a motor vehicular accident that had occurred on 06.12.2010, due to negligent driving of motor vehicle described as Tata truck bearing registration No.DL-1GB-6743. The tribunal held inquiry and, by judgment dated 03.09.2012, accepted the said case awarding compensation in the sum of Rs.45,30,250/-, fastening the liability to pay with interest @ 9% per annum on the appellant

(insurer), it admittedly having issued the insurance policy against the third party risk in respect of the vehicle in question.

2. The insurer questions the award on the ground that the finding on the issue of negligence is not based on any evidence and that the award is unduly high, exception also being taken to the inclusion of element of future prospects of increase in income to the extent of 50% and the father being taken as one of the dependents.

3. Having heard the learned counsel on both sides and having gone through the record, this court finds no substance in the objection to the finding on the issue of negligence. It is noted that the tribunal had acted on Detailed Accident Report (DAR) and has gone by the attending circumstances, following the principle of *res ipsa loquitur.* The said finding is, thus, not disturbed.

4. The exception to the inclusion of future prospects of increase in income to the extent of 50% is also not correct. The documents (Ex.PW-2/A) and (Ex.PW-2/B) reveal rise in the income over the period from the private employment and, therefore, it is not correct to contend that the deceased was working at a fixed salary.

5. The claim that the father was not one of the dependents was not contested before the tribunal. Therefore, deduction on account of personal and living expenses taking him as one of the dependents is not incorrect.

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

7. By order dated 05.12.2012, the insurer was directed to deposit 75% of the awarded amount with upto date interest with the tribunal, and out of such deposit, 50% of the award was ordered to be released to the claimants. The insurer is directed to satisfy the remainder of its liability by requisite deposit along with upto date interest with the tribunal within thirty days, making it available to be released to the claimants in terms of the award.

8. The statutory deposit shall be refunded to the insurer, only after proof of award having been satisfied is shown.

9. The appeal along with pending application stands disposed of in above terms.

R.K.GAUBA, J.

DECEMBER 08, 2017
vk