$~R-148

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

Decided on: 30th August, 2017

\+ MAC APPEAL 633/2009 and CM 18781/2009

UNITED INDIA INSURANCE CO. LTD. ..... Appellant
Through: Mr. Shoumik Mazumdar, Adv.

versus

RAM KISHAN & ORS. ..... Respondents
Through: Mr. Ashok Popli, Adv. for R-1

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

<u>JUDGMENT (ORAL)</u>

1. The compensation granted in favour of the first respondent by the impugned judgment dated 05.09.2009 of the Motor Accident Claims Tribunal (Tribunal), deciding accident claim case (petition no.53/2009, original no.370/07) on account of the injuries suffered by him in a motor vehicular accident on 25.05.2007 involving a bus bearing registration no.DL-1P-B-3954, it admittedly insured against third party risk with the appellant /insurance company (insurer), includes award on account of loss of earnings, the income having been assessed on the basis of evidence of Ratan Lal (PW-2).

2. The insurance company, on which the liability has been fastened, by the appeal at hand, submits that the evidence of PW-2 should not have been believed and that the compensation should have been computed instead on the basis of minimum wages.

3. Having heard the learned counsel for the appellant and for the claimants and having gone through the tribunal's record, particularly the evidence of PW-2 mentioned above, this court finds no substance in the appeal. The evidence of PW-2 duly proved the engagement of the claimant as a sales person in his establishment and the wages earned therefrom. In these circumstances, the award does not suffer from any error or infirmity. The appeal is, therefore, dismissed.

4. By order dated 23.12.2009, the insurance company had been directed to deposit the entire awarded amount with interest with UCO Bank, Delhi High Court branch. By order dated 22.02.2010, Rs.57,503/- (Rupees Fifty Seven Thousand and Five Hundred and Three Only) was released from out of such deposit into the saving bank account of the first respondent, the balance having been kept in fixed deposit receipts for various periods which were handed over. The amount already released shall be treated as an amount received by the claimant towards satisfaction of the award granted in his favour. If there is any deficiency, the claimant is at liberty to take out appropriate proceedings before the tribunal.

5. The statutory amount shall be refunded.

6. The appeal and the pending application are disposed of in above terms.

R.K.GAUBA, J.

AUGUST 30, 2017
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