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

Decided on: 9th August, 2017

\+ MAC.APP. 864/2016 and CM APPL.38774/2016 (stay),
CM APPL.10347/2017 (for release of amount)

THE ORIENTAL INSURANCE CO LTD ..... Appellant

Through: Mr. S.P. Jain, Advocate

versus

NIRMALA DEVI & ORS ..... Respondents

Through: Mr. J.S. Kanwar, Advocate for R-1 to R-6.

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

JUDGMENT (ORAL)

1. This appeal is by the insurance company on which liability has been fastened by the Motor Accident Claims Tribunal (the Tribunal) by its judgment dated 22.08.2016 on accident claim case (MACT No.158/2016) which was originally filed in 1990 on account of death of Sri Kishan, statedly in a motor vehicular accident that occurred due to negligent driving of Maruti Van bearing registration No.DHN-08757, admittedly insured with the appellant insurance company for the period in question against third party risk.

2. The claim case has a long chequered history. It was filed in 1991, due to accident that occurred in 1990, which was dismissed in default several times, the appeal filed meeting similar neglect. Eventually, by the impugned judgment, the tribunal has upheld the

claim of first to sixth respondents (collectively, the claimants) that the death had occurred on account of negligent driving of the above mentioned vehicle and awarded compensation in the sum of Rs.3,80,912/- which includes loss of dependency calculated at Rs.1,95,912/-

3. The appeal is pressed by the insurer on the ground that the element of future prospects of increase could and should not have been added in working out the loss of dependency. This plea must be noted and rejected outright in view of clear and irrefutable evidence showing that the deceased was in regular employment with DCM Mill as a security guard.

4. In these circumstances, the appeal is dismissed.

5. The insurance company had deposited the awarded amount with interest in terms of the order dated 21.10.2016. The amount deposited shall now be released to the claimants in terms of the awarded amount.

6. The statutory amount shall be refunded to the appellant insurance company.

7. The appeal as well as pending applications are disposed of in above terms.

R.K.GAUBA, J.

AUGUST 09, 2017
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