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

*Decided on: 18<sup>th</sup> August, 2017*

+ MAC.APP. 722/2017 and CM 29154/2017 and 29155/2017

MEERA & ANR ..... Appellants

Through: Mr. Umesh Kumar, Advocate

Versus

ORIENTAL INSURANCE CO LTD ..... Respondent

Through: Mr. Amit Gaur for Mr.Pradeep  
Gaur, Advocate

**CORAM:**

**HON'BLE MR. JUSTICE R.K.GAUBA**

**JUDGMENT (ORAL)**

1. The Motor Accident Claims Tribunal (Tribunal), by judgment dated 09.03.2017, awarded compensation in the sum of Rs.7,64,616/- on account of the death of Sujeet, bachelor son of the appellants herein on their claim petition (MACT case no.113/2017), the said amount inclusive of loss of dependency worked out to the extent of Rs.6,29,616/- on the basis of assumed income of the deceased by taking the minimum wages of an unskilled worker in the State of Haryana.

2. It is the contention of the appellants that the deceased was employed at a salary of Rs.14,000/- p.m. and that salary certificate

(Ex. PW1/10) was submitted with the evidence of the first appellant Meera (PW-1).

3. The appeals seeks enhancement of compensation.

4. While conceding that the afore-said private employment was not strictly proved by summoning the employer with the corresponding records affirming such engagement, the counsel for the appellants submits that the impugned judgment may be set aside and the matter remanded so that the necessary evidence in such regard may be led in order that the claimants are able to obtain compensation which is just and fair.

5. The liability was fastened by the impugned judgment against the respondent (insurer). Issue notice to the respondent. Mr. Amit Gaur, Advocate accepts notice on behalf of the respondent / insurance company.

6. Heard further. The learned counsel for the insurance company submits that he leaves the matter to the discretion of the court in so far as the request for remit of the case is concerned.

7. Given the above submissions, the prayer is granted. The appeal is allowed. The impugned judgment is set aside. The inquiry into the claim petition of the appellants is remanded to the tribunal for further opportunity to be given to the appellants to lead additional evidence with regard to the employment and earnings of the deceased. After such opportunity has been given to the appellants, the contesting parties shall be given an opportunity to lead evidence in rebuttal, if any. The tribunal shall thereafter pass a fresh judgment.

8. The parties shall appear before the tribunal on 15.09.2017.

9. The applications filed with the appeal also stand disposed of.

**R.K.GAUBA, J.**

**AUGUST 18, 2017**

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