$~20 & 21 *(common order)*

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

Decided on: 24th July, 2017

\+ MAC.APP. 283/2009

ANJU BEDI & ORS. ..... Appellants

Through: Mr.Suresh Sharma, Advocate with Mr. Sunil Gupta, Adv.

versus

JAGDISH & ORS. ..... Respondents

Through: Mr. Manish Verma, Advocate with Mr. Rahul Raheja, Adv. for R-2.
Mr. Sameer Nandwani, Adv. for R-3.

\+ MAC.APP. 1000/2016

UNITED INDIA INSURANCE CO LTD ..... Appellant

Through: Mr. Sameer Nandwani, Adv.

versus

ANJU BEDI & ORS ..... Respondents

Through: Through: Mr.Suresh Sharma, Advocate with Mr. Sunil Gupta, Adv.
Mr. Manish Verma, Advocate with Mr. Rahul Raheja, Adv. for R-5.

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

JUDGMENT (ORAL)

1. Satish Kumar Bedi had suffered injuries in a motor vehicular accident that occurred on 06.06.1996, it involving negligent driving of

truck bearing registration No.DEG-367, concededly insured against third party risk with the United India Insurance Company Limited, (appellant in MAC APP.1000/2016). The injuries included grievous ones requiring prolonged indoor hospital treatment and surgical procedure. He filed accident claim case on 14.11.1996 impleading insurer, driver and owner of the truck as respondents. The driver and owner of the truck suffered the proceeding *ex-parte*, the contest being put up only by the insurer.

2. During the pendency of the proceedings Satish Kumar Bedi died on 17.03.1998. His widow and other members of the family/dependents (appellants in MAC APP.283/2009) took over the said proceedings. The case, however, continued to be pressed as a claim for compensation on account of injuries since there was no claim or proof of death being on account of the injuries suffered in the accident. Thus, the claimants led evidence mainly to seek compensation on account of loss to estate due to expenditure incurred in the treatment. The tribunal, by judgment dated 01.04.2009, awarded total compensation in the sum of Rs.30,000/- with interest @ 9% per annum.

3. Aggrieved by the above award, the claimants filed MAC APP.283/2009, it being pressed primarily to seek addition of the expenditure reflected by documents (Ex.PW-1/8 and Ex.PW-1/9) reflecting medical expenditure in the sum of Rs.62,600/- and Rs.19,160/- during two different periods of hospitalization with

Medical Consultants Combine through their medical facility known as Sharma Nursing Home.

4. Notice of the appeal of the claimants was issued by order dated 03.07.2009 only to the insurance company which appeared, in response, and also filed cross objections which have been registered as MAC APP.1000/2016. The basic contention urged by the insurer in pressing the said appeal is that the negligence was not strictly proved.

5. Having heard the learned counsel on both sides and having gone through the tribunal's record, this court is of the view that the insurer's appeal must be dismissed. The record shows that the victim had himself filed accident claim petition supporting it with his own affidavit. It was also supported by the relevant record of investigation by the police into the corresponding FIR (Ex.PW-1/26 collectively). In the face of the said material, the facts concerning the accident having been affirmed by the original claimant, it cannot be said that there was no evidence of negligence. The impugned judgment, therefore, does not call for any interference to that extent.

6. The appeal of the claimants, however, must be accepted. There is no reason why the evidence adduced through Ex.PW-1/8 and Ex.PW-1/9 about additional expenditure in the sum of (62,600/- + 19,160/-) Rs.81,760/- should be disbelieved. The said documents are supported by the corresponding medical records and the receipts showing purchase of medicines, as also affirmed on oath by Dr. Hans U. Nagar (PW-4).

7. Thus, the amount of Rs.81,760/- rounded off to Rs.82,000/- is added raising the compensation to Rs.1,12,000/-. Needless to add, it shall carry interest as levied by the tribunal.

8. Given the facts and circumstances of the case, it is directed that the entire enhanced portion of the awarded amount along with interest shall be paid to the first claimant (widow).

9. The insurance company shall satisfy the award by requisite deposit with the tribunal within thirty days, making it available to be released to the claimants.

10. Both the appeals stand disposed of in above terms.

R.K.GAUBA, J.

JULY 24, 2017
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