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

Decided on: 25th July, 2017

+ MAC.APP. 645/2017 and CM Nos.26020-26022/2017

M/S NATIONAL INSURANCE CO LTD Appellant
Through: Mr. D.K. Sharma, Advocate

versus

REKHA & ORS Respondents
Through

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

JUDGMENT (ORAL)

1. Vinod Kumar, employed as Safai Karamchari with Municipal Corporation of Delhi suffered injuries in a motor vehicular accident that occurred on 22.01.2014 and died in the consequence. The accident involved negligent driving of Eco car bearing registration no.DL-8C-AD-0296 which was admittedly insured against third party risk with the appellant insurance company (insurer).
2. The widow and children of the deceased, first to fourth respondents (claimants), instituted an accident claim case (MACT 130/14, new no.50646/16) in the wake of a detailed accident report (DAR) submitted by the police pursuant to the evidence collected during investigation of first information report (no.49/14) of police station Bharat Nagar, Delhi.
3. The Motor Accident Claims Tribunal (Tribunal), by judgment

dated 21.04.2017 awarded compensation on the principle of fault liability calculating it in the total sum of Rs.42,18,760/-, this on the basis of evidence showing the gross salary earned at the relevant point of time being Rs.19,228/- p.m.

4. The insurance company, which has been fastened with the liability to pay, has come up with the appeal at hand questioning the computation of loss of dependency on such basis, its contention being that the allowances including in the nature of transport allowances are personal and should not have been included in the calculation and further that for calculating the loss of dependency, income tax liability should have been deducted.

5. A copy of the salary certificate and further clarification thereupon has been placed on record. The allowances in the nature of transport allowances and other allowances in the sum of Rs.1140/- p.m. and Rs.576/- p.m. meant corresponding savings for the family. They were regular allowances and, therefore, have been rightly included in the calculation. Going by the income tax rates applicable for the financial year 2013-2014, bearing in mind the exemption that could be availed by permissible investments included towards insurance or provident fund, no liability towards income tax as required to be deducted.

6. The appeal is, therefore, devoid of substance and is dismissed *in limine*. The pending applications also stand dismissed.

7. The insurance company is directed to satisfy the award forthwith.

8. The statutory amount, if deposited, shall be refunded.

R.K.GAUBA, J.

JULY 25, 2017

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