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

Decided on: 31st July, 2017

+ **MAC.APP. 663/2017 & CM Nos. 26935-37/2017**

SHRI RAM GENERAL INSURANCE COMPANY LTD

..... Appellant

Through: Ms. Neerja Sachdeva, Adv.

versus

ANITA AND ORS

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. By judgment dated 12.04.2017 on the accident claim case (MACT 3164/2016) of the first to third respondents (collectively, the claimants) arising out of death of Master Prince, aged 16 years, in motor vehicular accident that occurred on 22.10.2012, due to negligent driving of truck no. UP 21AN 0557, admittedly insured against third party risk with the appellant insurance company, the tribunal has awarded compensation in the sum of Rs. 9,26,676/- directing the appellant to pay, such amount having been calculated in terms of directions of this Court in judgment dated 13.05.2016 in a batch of similarly placed appeals led by MAC.APP.554/2010, *Chetan Malhotra v. Lala Ram*. The insurance company has come up in appeal raising two contentions, the first concerning the territorial jurisdiction on the ground that the accident had occurred in the State of UP and the claimants are also residents of that state, the other contention being

that is similar case of death of a child reported as *Kishan Gopal & Anr. vs. Lala & Ors. (2014) 1 SCC 244*, the Supreme Court had awarded Rs. 5 lakhs as compensation.

2. Both contentions are devoid of substance. It is noted that the appellant carries on business in Delhi, it being a necessary party to the proceedings before the tribunal and having been so impleaded, had participated in the inquiry. Even the description of the appellant in the appeal confirms that it carries on business from premises in Delhi. The impugned judgment shows the issue of territorial jurisdiction was not even raised before the tribunal. In these circumstances, this objection ought not be entertained at this stage.

3. The decision in *Kishan Gopal & Anr. (supra)* concerned the death of a child aged 10 years in an accident which had occurred in 1992. The said decision will have to be understood and applied in the light of facts and circumstances of that case. On being asked, the counsel for the appellant was unable to point out any error on part of the tribunal in computing the compensation as per the ruling in *Chetan Malhotra (supra)*.

4. The appeal along with accompanying applications is dismissed in *limine*.

5. The insurance company shall satisfy the award forthwith.

6. Statutory amount shall be refunded after proof is shown of requisite deposit with the tribunal.

R.K.GAUBA, J.

JULY 31, 2017/nk