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

Decided on: 17th August, 2017

\+ MAC.APP. 852/2015 and CM APPL. 25898/2015

NATIONAL INSURANCE CO LTD ..... Appellant

Through: Mr. Pradeep Gaur, Advocate

versus

PHOOL SINGH & ORS ..... Respondents

Through: Mr. V.K. Vashistha, Advocate for R-1, R-2, R-3A and R-3C. Mr. Mirza Amir Baig, Adv. for Mr. Sarfaraz Khan, Adv. for R-4 & R-5

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

JUDGMENT (ORAL)

1. Durga Prasad, a bachelor, then about 45 years old, suffered injuries in a motor vehicular accident that occurred on 23.08.2004 involving negligent driving of bus bearing registration No.DL-1PA-1969, admittedly insured against third party risk with the appellant insurance company (insurer) and died in the consequence.

2. A Claim petition (MACT No.703/08/2007) was instituted by the first respondent, the son of the brother of the deceased claiming to be the legal heir dependent upon him. Later, it came to be revealed that the deceased was one of the four brothers they including Sheetal Singh, father of the first respondent, Devtadeen and Sukhdev Singh,

besides the deceased himself. All the brothers of the deceased have also since died, their respective legal heirs having been brought on record, they being now respondent nos.2, 3A, 3B and 3C.

3. The Motor Accident Claims Tribunal (the Tribunal), by judgment dated 22.07.2015, awarded total compensation in the sum of Rs.2,85,684/- fastening the liability on the insurer.

4. The insurer by the appeal at hand questions award in favour of the above mentioned respondents (collectively, the claimants), who are nephews to the deceased. This contention must be rejected as the evidence on record clearly shows that the deceased, a bachelor, was living in the same house with the claimants, the first respondent in the course of his evidence clearly bringing out the fact that the family was joint and dependent on each other.

5. The appeal is devoid of substance and is dismissed with accompanying application.

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

7. The amount deposited by the insurance company in terms of order dated 04.11.2015 shall now be released to the claimants in terms of the impugned award.

R.K.GAUBA, J.

AUGUST 17, 2017
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