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

% **Date of Decision: 11th April, 2017**

\+ FAO 41/2016 & CM 2132/2016

RELIANCE GENERAL INSURANCE CO. LTD...... Appellant
Through: Mr.Rajat Brar, Advocate
versus

ISHRAT BEGUM & ORS. ..... Respondents
Through: Mr.Anshuman Bal, Advocate for respondents no.1 to 4 along with respondent No.1 in person.

CORAM:
HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

1. The appellant has challenged the impugned order dated 19th October, 2015 whereby Commissioner, Employees' Compensation awarded compensation of Rs.7,88,240 /- to legal representatives of late Mohd. Zuber.

2. Respondent no.1 is the widow, respondent no.2 is the minor daughter and respondent no.3 is the mother of late Mohd. Zuber who was driving vehicle No.UP-14AH-9480 under the employment of respondent no.5 on 16th November, 2012 while going from Seelampur, Delhi to Amroha and he was murdered on the way under the jurisdiction of P.S. Rajabpur, U.P. Respondent no.5 is the owner of the offending vehicle which was insured with the appellant.

3. Learned counsel for the appellant urged at the time of the hearing that the deceased was not holding a valid driving licence at the time of the accident and therefore, the appellant is entitled to the

recovery rights against respondent no.5.

4. The law with respect to the accidental murder is well settled. Reference be made to ***Rita Devi v. New India Assurance Co. Ltd.,*** 2000 ACJ 801 (SC), ***United India Insurance Company Ltd. v. Kanshi Ram,*** 2006 ACJ 492 (Delhi High Court), ***Satiya v. Sub-Divisional Officer, Public Works Department Narsimhapur*** 1974 (2) L.L.N. 204 (Madhya Pradesh High Court), ***Oriental Insurance Co. Ltd. v. Sheela Bai Jain,*** 2007 ACJ 1126 (M.P. High Court) (DB), ***Parle Products Limited v. Sri Subir Mukherjee*** (2001) ILLJ 964 Cal., (Calcutta High Court) (DB), ***Varkeyachan v. Thomman***, 1979 ACJ 319, (Kerala High Court) (DB), ***United India Insurance Company Ltd. v. Philo,*** 1996 ACJ 849 (Kerala High Court) (DB), ***United India Insurance Co. Ltd. v. Thankamma***, (2011) 3 KLT 466 (Kerala High Court) (DB), ***Bhagubai v. General Manager, Central Railway***, ILR 1954 Bom 1051, (Bombay High Court) (Division Bench), ***State of Maharashtra v. Arti,*** 2008 ACJ, 1406 (Bombay High Court)***, G. Amsaveni v. V. Komala***, 2013 SCC OnLine Mad 3555 (Madras High Court), ***Branch Manager, National Insurance Company Ltd. v. Rahmath***, 2012 (3) L.W. 371, ***National Insurance Co. Ltd. v. Sabita Gope***, 2000 (2) LLN 655, (Gauhati High Court) (Division Bench) and ***M A Kareem Sab v. Palaniyamma***, 2013 SCC OnLine Kar 4514 (Karnataka High Court).

5. There is no infirmity in the award of compensation of Rs.7,88,240/- to the legal representatives of late Mohd. Zuber. However, the issue as to whether the appellant is entitled to recovery rights against respondent no.5 needs consideration.

6. The award of compensation of Rs.7,88,240/- by the Commissioner, Employees' Compensation against the appellant is upheld. However, the issue as to whether the appellant is entitled to

recovery rights against respondent no.5 is remanded back to the Commissioner, Employees' Compensation. The appeal is disposed of on the above terms.

7. The parties shall appear before the Commissioner, Employees' Compensation on 24th May, 2017 when the Commissioner, Employees' Compensation shall list the case for hearing on the issue as to whether the appellant is entitled to recovery rights against respondent no.6.

8. The record of the Commissioner, Employees' Compensation be returned back forthwith.

9. The appellant has deposited a sum of Rs.10,15,330/- with the Commissioner, Employees' Compensation on 30th November, 2015. The Commissioner, Employees' Compensation is directed to instruct State Bank of India, Vivek Vihar to keep a sum of Rs.9 lakh in FDRs in the following manner:

(i) Rs.5 lakh be kept in 100 FDRs of Rs.5,000/- each in the name of respondent no.1, Ishrat Begum for the period 1 month to 100 months respectively with cumulative interest.

(ii) Rs.2 lakh be kept in FDR in the name of respondent no.2, Nusrat till she attains majority. However, the monthly interest on the said FDR be credited in the savings bank account of respondent no.1. On attaining the majority, the Bank shall release Rs.20,000/- to respondent no.2 and keep the balance amount of Rs.1,80,000/- in 18 FDRs of Rs.10,000/- each for the period 1 month to 18 months respectively in the name of respondent no.2, Nusrat with cumulative interest. The maturity amount of FDRs of respondent no.2 to be issued upon respondent no.2 attaining majority shall be transferred to savings bank account of respondent no.2.

(iii) Rs.2 lakh be kept in 40 FDRs of Rs.5,000/- each in the name of respondent no.3, Jamila Khatoon for the period 1 month to 40 months respectively with cumulative interest.

10. The balance amount, after keeping Rs.9 lakh in FDRs, be released to respondents no.1 and 3 in equal proportion by transferring the same to their savings bank accounts as per particulars given hereinbelow:-

<u>Respondent no.1(Ishrat Begum)</u>
Bank of Maharashtra, Yamuna Vihar, Delhi
A/c No.60161391480
MICR Code: 110014043
IFSC Code: MAHB0001363

<u>Respondent no.3(Jameela Khatoon)</u>
State Bank of India, Karawar Nagar, Delhi
A/c No.32390911816
IFSC Code: SBIN0006816
MICR Code: 110002143

11. All the original FDRs shall be retained by concerned bank. However, the statement containing FDR number, FDR amount, date of maturity and the maturity amount be furnished to respondents no.1 and 3.

12. The maturity amount of the FDRs of respondent no.1 shall be transferred to her aforesaid savings bank account with Bank of Maharashtra whereas the maturity amount of FDRs of respondent no.3 shall be transferred to her aforesaid savings bank account with State Bank of India.

13. No cheque book or debit card be issued to respondents no.1 and 3 by Bank of Maharashtra, Yamuna Vihar, Delhi and State Bank of India, Karawar Nagar, Delhi without permission of this Court. However, in case, the debit card/cheque book have already been

issued, concerned banks shall cancel the debit card and/or cheque book.

14. No loan or advance or pre-mature discharge shall be permitted without the permission of this Court.

15. Respondents no.1 and 3 is at liberty to approach this Court for pre-mature release of FDR in case of any financial exigency.

16. The pending application is disposed of.

17. Copy of this judgment be given *dasti* to counsel for the parties under the signature of the Court.

APRIL 11, 2017 **J.R. MIDHA, J.**

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