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

Decided on: 12th October, 2017

+ **MAC APPEAL No. 975/2015**

THE NEW INDIA ASSURANCE. CO. LTD. Appellant

Through: Mr. Vinod Trisal, Adv.

versus

SMT. LAXMINA DEVI & ORS. Respondent

**Through: Mr. Rakesh Yadav & Mr. Sunil
Kumar Pandey, Adv. for R-1 t
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CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The only issue pressed at the hearing by the appellant insurance company is that since the accident had occurred in Ghaziabad, there being no proof on record showing the deceased was an ordinary resident of District Ghaziabad UP in calculating the loss of dependency, the tribunal should have adopted the minimum wages of UP rather than that of the Union Territory of Delhi. This plea cannot be accepted in view of the evidence on record, *inter alia*, also showing that the deceased and the claimants had been residents of village Ghazipur within the territory of Delhi and further that he was earning his livelihood as a hawker of fruits and vegetables for which he would cross over to Delhi as well.

2. In these circumstances, the appeal is dismissed.
3. By order dated 15.12.2015, the insurance company had been directed to deposit the entire awarded amount with the Registrar General of this Court and out of such deposit 50% was allowed to be released to the claimants. By subsequent order dated 08.02.2016, it was clarified that such deposit was to be made with the tribunal. The tribunal shall release the balance to the claimants in terms of the impugned judgment.
4. The statutory amount shall also be refunded.

OCTOBER 12, 2017

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R.K.GAUBA, J.



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