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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on :- 15th January, 2018

\+ MAC.APP. 697/2016

RELIANCE GENERAL INSURANCE COMPANY LTD ..... Appellant

Through: Mr. P. Srinivasan for Mr. Rajeev M. Roy, Advocate.

versus

SUMAN & ORS ..... Respondents

Through: Mr. S.N. Parashar, Advocate for R-1 to R-6.

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

JUDGMENT (ORAL)

CM No.1535/2018 (for early hearing) moved by first to sixth respondents (claimants)

Heard. The counsel for the insurer/appellant has no objection.

The appeal is taken up for hearing.

The application is disposed of with these observations.

MAC.APP. 697/2016

1. The Motor Accident Claims Tribunal decided the accident claim case (Suit No. 339/15) instituted by the first to sixth respondents (collectively, the claimants) on 08.12.2015, by its judgment dated 20.05.2016. By the said judgment, the Tribunal awarded

compensation in the total sum of Rs.42,47,118/- in favour of the claimants and fastened the liability on the appellant (insurer) to pay the same with interest at 9% per annum on account of death of Rajesh in a motor vehicular accident that had occurred on 28.09.2015, allegedly due to negligence on the part of the seventh respondent driving the vehicle described as Maruti Swift D'zire bearing registration No. DL-1YC-0137, insured with the appellant against third party risk for the period in question. The prime contention urged by the appellant (insurer) in the appeal is that even though the claim was presented under Section 166 of the Motor Vehicles Act, 1988, the Tribunal did not frame issues nor called upon the claimants to adduce any evidence in support of contentions to such effect and therefore, the judgment is without any basis or proof of involvement of the insured vehicle or negligence on the part of its driver.

2. The learned counsel for the claimants fairly conceded that the impugned judgment of the Tribunal suffers from the above-mentioned defects. He, therefore, submitted that while the appeal may be allowed and the impugned judgment be set aside, the matter may be remanded to the Tribunal for appropriate inquiry in accordance with law, so that the claimants can have the opportunity to lead proper evidence. The counsel for the appellant also agrees to this request.

3. Thus, the appeal is allowed. The impugned judgment is set aside and the claim case referred to above is remitted to the Tribunal for further inquiry in accordance with law. For this purpose, the parties are directed to appear before the Tribunal on 27.02.2018. It may be added that the appeal having been taken up and heard out of its

turn from the list of “Regulars”, the seventh respondent, the driver-cum-owner of the insured vehicle did not have a notice of the matter coming up before the Court today. Therefore, the Tribunal shall be obliged to issue a fresh notice to him to secure its presence before proceeding further.

4. By order dated 31.08.2016, coercive action against the insurer was stayed. By order dated 11.11.2016, the said order was modified to the effect that the insurance company was directed to deposit Rs.14 lakhs with the Tribunal within the period specified and upon such deposit being made, it was liable to be released to the claimants as per the apportionment indicated. The amount already received by the claimants will be liable to be adjusted against the award that may be eventually passed or be subject to further directions as may be issued by the Tribunal on the conclusion of the further proceedings in the matter.

5. The statutory deposit shall be refunded to the insurance company.

6. The appeal stands disposed of with above observations. The pending applications become infructuous and are dismissed.

R.K.GAUBA, J.

JANUARY 15, 2018
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