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F.M.A. 1498 of 2017
I.A. CAN 2 of 2018 (old No.CAN 1467 of 2018)
I.A. CAN 3 of 2019 (old No.CAN 8682 of 2019)
(Via Video Conference)

Reliance General Insurance Co. Ltd.
Vs.

Lata Singh & ors.

Mrs. Gopa Das Mukherjee ...For the Appellant/insurance co.

Mr. Jayanta Kumar Mandal ... For the respondents/claimants

I.A. CAN 3 of 2019 (old No. CAN 8682 of 2019)

This is an application for recalling of the order dated July 31, 2019. The same is considered by this Court. The ground disclosed in the application is satisfactory. The order of dismissal is recalled.

The appeal being F.M.A. 1498 of 2017 together with application being C.A.N. 1467 of 2018 is restored to its original number and file.

The application is, thus, disposed of.

I.A. CAN 2 of 2018 (old No. CAN 1467 of 2018)

The instant application has been filed by the respondents/claimants for deleting the name of respondent/claimant no.2 (Jamotri Singh) from the cause-title of the memorandum of appeal since during pendency of the appeal the said claimant/respondent has expired and also praying for final disposal of the appeal and for withdrawing the entire awarded amount without furnishing any security.

On perusal of the pleadings and the copy of death certificate of the said Jamotri Singh (mother of the

deceased victim) and also upon perusal of records it appears that the wife and minor son of the deceased are already on record and as such, the name of said Jamotri Singh, the respondent/claimant no.2 should be deleted from the cause-title of the memorandum of appeal and accordingly, the department is directed to delete the name of Jamotri Singh, the respondent/claimant no.2 from the cause-title of the memorandum of appeal.

The application is, thus, disposed of.

Now the parties have agreed to proceed with the appeal for disposal.

F.M.A. 1498 of 2017

The instant appeal is directed against the judgement and award dated March 28, 2017 passed by the learned Judge, Motor Accident Claims Tribunal, Additional District Judge 1st Court, Barasat, North 24-Parganas in M.A.C. Case No.4185 of 2014/M.A.C. Case No.58 of 2015 in a claim under Section 166 of the Motor Vehicles Act, 1988 for the death of one 'Ashoke Singh' in a vehicular accident dated 27.11.2012.

The appellant/insurance company disputes its liability of satisfaction of award on the ground that the learned Tribunal while directing the appellant/insurance company to satisfy the award ought to have considered the evidence of D.W.1 who categorically stated that the driver who caused the accident did not possess a valid driving licence and the learned Tribunal ought to have

applied the multiplier of 8 instead of 11. Insurer states that for such violation of policy conditions it should not be asked to indemnify the insured and the award should be satisfied by the owner of the said vehicle. The appellant/insurance company raised another point that the learned Tribunal below is wrong in assessing the interest @ 8% per annum instead of 6% per annum and further submits that the interest should be granted @ 6% per annum over the entire awarded amount from the date of filing of the claim case till payment to the claimants.

Learned Advocate appearing on behalf of the claimants/respondents disputes the contention of the insurance company and submits that the learned Tribunal was correct in awarding compensation and making insurer liable to pay the same and refers the findings of the learned Tribunal below and also submit that the contents of such documents have not been proved as per law, since the issuing authority has not come to prove the contents of the documents. Learned Advocate appearing on behalf of the claimants further submits that the award passed by the learned Tribunal below is correct.

Upon hearing the parties and upon considering the decisions in the cases of (i) **Smt. Sarla Verma & ors. Vs. Delhi Transport Corporation & anr.**, reported in (2009) 6 SCC 121; (ii) **National Insurance Co. Ltd. Vs. Pranay Sethi & ors.**, reported in (2017) 16 SCC 680; (iii)

R.V.E. Venkatchala Gounder Vs. Arulmigu Viswesaraswami & V.P. Temple & anr., reported in **(2003) 8 SCC 752**, I am unable to accept the argument of appellant/insurance company that the multiplier would not be 11 and also I am unable to accept the evidence of D.W.1 at this stage. The appeal fails on the above ground. But there is a substance on the submission of the learned Advocate for the appellant/insurance company regarding granting of interest @ 6% per annum over the entire awarded amount as per present position of law and this Court is modifying the impugned award only to the extent that interest will be calculated @ 6% per annum over the entire compensation amount as calculated by the learned Tribunal below and the other part of the impugned award will remain same.

Learned Counsel for the insurance company submits that the insurance company has already secured the awarded amount plus interest at Rs.17,01,276/- in total, by way of three separate deposits, before the learned Registrar General of this Court.

Accordingly, the claimants/respondents are entitled to get the entire awarded sum of Rs.12,43,546/- together with interest @6% per annum from the date of filing the claim case till payment to the claimants from the Registrar General of this Court. The claimants/respondents shall furnish particulars of their respective Bank accounts to the Registrar General of this

Court as expeditiously as possible. Upon receipt of such bank details, the learned Registrar General is directed to pay the awarded amount as indicated above directly into the claimants' bank accounts in accordance with law and in the same manner and proportion of the award within a period of four weeks. The Registrar General shall check the veracity of the bank accounts and identity of the claimants before disbursing the amount. If there is any shortfall, the insurance company is directed to pay the balance amount in accordance with law.

It will however be open to the insurance company to file a civil suit against the owner of the offending vehicle for recovery of the compensation paid on the ground that it was the sole obligation of the owner of the offending vehicle to pay the compensation, if it can prove its case that the offending vehicle did not have the route permit or the driver of the offending vehicle did not possess a valid driving licence at the time of accident.

With the aforesaid directions, the instant appeal is disposed of. There shall be no order as to costs.

In view of the disposal of this appeal, connected application, if any, is also disposed of. The concerned Department is directed to tag the application, if any, with the main appeal.

Urgent Photostat certified copy of this order, if applied for, be given to the parties, upon compliance of all formalities, on priority basis.

(Shekhar B. Saraf, J.)