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

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Date of Decision: 01.04.2019

% **MAC.APP. 414/2019**

THE UNITED INDIA INSURANCE CO. LTD. Appellant

Through Mr.S.P. Jain, Mr. Himanshu Gambhir,
Ms. Amandeep Kaur, Mr. Abhijeet,
Advocates.

versus

PUNAM & ORS

..... Respondents

Through Mr.Nitesh Kumar Singh for
Ms.Avnish Ahlawat, Standing
counsel for the DTC/ respondent no.7.

**CORAM:
HON'BLE MR. JUSTICE A.K. CHAWLA**

J U D G M E N T

A.K. CHAWLA, J. (ORAL)

CM APPL. 14463/2019

Exemption allowed, subject to just exceptions.

MAC. APPL. 414/2019 and CM APPL. 14464/2019 (for stay)

1. By the instant appeal, the appellant-the insurer, assails the judgment-the Award dated 14.12.2018 passed by the MACT (Pilot Court),

Karkardooma, Delhi, where-under, an Award in the sum of Rs.34,68,572/- has come to be passed in favour of the claimants-the respondent nos. 1 to 6, who are the widow, children and the parents of the deceased Ajay Chauhan, in short 'the deceased', who died as a result of the injuries sustained in the motor accident, in which, the DTC bus bearing registration No.DL 1 PC 3101, in short 'the offending vehicle', was involved.

2. The involvement of the offending vehicle and the appellant being the insurer thereof being not in dispute, learned counsel for the appellant, during the course of hearing, primarily, laid emphasis on the basis of computing / assessing the compensation. In his submissions, the Tribunal, instead of applying the minimum wages applicable to a matriculate as on the date of the occurrence of the accident, should have assessed and applied the notional income, to compute the compensation. In support of such submissions, reliance was placed upon '**Savita vs. Bindar Singh & Ors.**', II (2014) ACC 244 (SC). In the second limb of his submissions, learned counsel for the appellant, contended that, even, if, the minimum wages of an matriculate were to be applied, such wages should have been taken as the wages applicable in UP rather than applying the minimum wages prescribed for Delhi.

3. How does *Savita's* case (supra), in the given facts and circumstances of the case, support the plea made on behalf of the appellant that the compensation should have been assessed on the basis of the notional income and not on the conventional basis of the wages prescribed for a matriculate, which, the deceased undisputedly was, the ld. counsel for the appellant has been at pains to point out. *Savita's* case (supra) only adverts to the

assessment of compensation on notional basis, in the given facts and circumstances of the case. In doing so, the Supreme Court in the said judgment proceeded to provide for the benefit of future prospect in awarding compensation, which, the Tribunal and the High Court had not provided. To this Court, the very premise of the contention raised on behalf of the appellant-the insurer, is wholly unfounded and misconceived and deserves rejection outrightly. As of now, from the judgment of '**Sarla Verma vs. DTC**' 2009 6 SCC 121 onwards, there are several pronouncements of the Courts, which delve on the subject of just compensation to be provided to the victims of motor accidents, and, elaborate, that, just compensation has to be adequate compensation, which is fair and equitable. The Tribunal has taken note of few of the pronouncements on the subject in the impugned judgment-Award, and, this Court does not find any reason to interfere in the approach so adopted by the Tribunal in awarding the compensation, taking the prescribed minimum wages of the deceased, which is conventional, especially, when, the appellant-the insurer, does not dispute such qualification of the deceased. More so, when, it is not the contention raised that the deceased was not employed. It appears, the failure of the claimants, to lead cogent evidence to prove the actual income of the deceased, the appellant-the insurer, seeks to take it to be a case of total unemployment or incapacitation to earn. Such a plea, in the given facts and circumstances of the case, deserves outright rejection, and, is so rejected.

4. As for the other contention raised on behalf of the appellant that the minimum wages as prescribed in Uttar Pradesh should have been applied in view of the fact that the deceased and his family were resident of Uttar

Pradesh, it appears, the appellant has chosen to raise such a plea, for the sake of it. It is not the plea of the appellant that the deceased was not employed in Delhi. In the absence thereof, the very premise of the plea raised in the said context, is wholly unfounded. Suffice to say, the compensation has a direct bearing to the income, which the deceased was actually earning or had the capacity to earn, and, the place of residence in that context, loses significance. In view thereof, the contention raised to the contrary is also rejected.

5. No other contention has come to be raised assailing the impugned judgment-Award. For the foregoing reasons, the appeal and the application are dismissed.

APRIL 01, 2019

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**A.K. CHAWLA
(JUDGE)**

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