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

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Decided on: 17.07.2019

+ MAC.APP. 672/2019, CM APPL. 31634/2019 & CM APPL. 31635/2019

THE NEW INDIA ASSURANCE CO LTD Appellant

Through: Mr. D.K. Sharma, Advocate.

versus

DARSHNA DEVI & ORS Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J. (Oral)

1. This appeal impugns the award of compensation to the respondents on the ground that it has erred both in facts and in law. One Sh. Raghvinder Singh, who was employed in the rank of EHC with Ist Indian Reserve Battalion (IRB) died in a motor vehicle accident on 17.12.2015, when he was hit by a vehicle which was being driven in a rash and negligent manner. It was so severe that the deceased fell on the road at a distance of almost 60 to 70 feet from where he was struck by the offending vehicle and died on the spot. The driver managed to run away with the offending vehicle. The offending vehicle was insured with the appellant.

2. The involvement culpability of the insured vehicle was established and the appellant has been found liable to pay the damages. The Award is

impugned on the ground that, after the Award was passed, the appellant had initiated an investigation to ascertain whether the claimant/respondent no. 1 was getting any family pension or whether she was employed with the employer of the deceased. Referring to the Investigation Report of its private investigator, who has stated to the effect that i) she was receiving a pension of Rs. 34,726/- per month and ii) there was no family member of the deceased who had been employed with the Indian Reserve Battalion where the deceased was serving. The investigation on the basis of a statement of the son that his mother was receiving pension on account of the death of his father. The said statement was denied by the mother in her evidence. The Court had recorded that when the son had testified that the mother was getting pension, the onus was on the appellant to initiate investigations right away by moving an application seeking requisite document from the erstwhile employer of the deceased. But, they chose not to do so. On a hunch that the mother was receiving a family pension, the appellant initiated investigation but that too after the Award had been pronounced. He now seeks to rely upon the Report which states that the mother is receiving a pension of Rs. 34,726/-, while the said Report itself is inadmissible at this stage.

3. The Court is of the view that it was always open to the appellant to have sought an opportunity to lead evidence apropos the actual monies being received by the claimant/widow, namely, Smt. Darshna Devi, wife of Sh. Raghvinder Singh but they chose not to do so.

4. The document relied upon dated 24.05.2019, is actually a pay slip for the month of April, 2019-2020 of Smt. Darshna Devi. According to the said

document, she is getting basic pay with D.A. and medical allowance for an amount of Rs. 34,726/- and it was not a family pension.

5. The Court would note that the pay slip is clearly towards payment of wages for Smt. Darshna Devi and not a document or voucher of payment of pension. It was for the appellant to have verified whether she was employed or not employed, but in the absence of verified document, there cannot be a cause for interference with the impugned order.

6. In view of the above, there is no merit in the appeal. Accordingly, it is dismissed.

NAJMI WAZIRI, J

JULY 17, 2019

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