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

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Decided on: 17.09.2019

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MAC.APP. 789/2019

THE NEW INDIA ASSURANCE CO LTD Appellant

Through: Mr. Pankaj Seth, Advocate.

versus

GUDDI DEVI & ORS Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J. (Oral)

MAC.APP. 789/2019, CM APPL. 41466/2019 & CM APPL. 41467/2019

1. The appellant impugns the award of compensation dated 30.05.2019 passed by the learned MACT in Petition No. 122/2018 on the ground that the minimum wages of Jharkhand should have been taken into consideration because the claimants are all residents of Jharkhand.
2. The aforesaid argument is *ex-facie* untenable because the case of claimants was that their deceased kin was plying a goods-carrying rickshaw in Delhi. It is in these circumstances that the learned MACT has taken the minimum wages applicable to an unskilled worker in Delhi. It has reasoned as under:-

*“PW-1 stated that the deceased was her husband.
He was a rickshaw puller and used to earn
Rs.25,000/- p.m. During cross examination she*

stated that her children are studying in a village at Jharkhand. She further stated that they are the residents of Jharkhand. She further stated that she has filed Aadhar card of her husband showing the address of Jharkhand. She further stated that she has not filed any documentary evidence that her husband was a resident of Delhi. She further stated that she has not filed any documentary evidence that her husband was earning Rs.25,000/- p.m.

During the course of arguments ld. counsel for the insurance company contented that for calculating the loss of income the minimum wages of Jharkhand should be considered as on the date of accident, the petitioners as well as the deceased did not have any residential proof of Delhi.

I am not convinced with the contention of ld. counsel for the insurance company. In a normal case where the petitioners do not have any residential proof of the deceased of Delhi and there is mere submission regarding working of the deceased in Delhi, the contention of the ld. counsel would have been acceptable. In the case in hand the submission of the petitioners is that the deceased was plying a goods rickshaw and was coming back after unloading some goods. The first information as received by the police shows that on the spot of accident near the divider, a goods rickshaw was found in accidental condition. The said rickshaw was also seized by the police and a seizure memo was prepared. Under these circumstances it is clear that although the deceased did not have any residential proof of Delhi but in all probability he was working in Delhi and it would be unjustified

that if the Tribunal considers minimum wages of Jharkhand and not of Delhi. Although the petitioners claim that the deceased was earning Rs.25,000/- p.m. but they have not placed on record any proof and thus, the Tribunal has no option but to take the minimum wages of Delhi, which at the time of accident were Rs.13,350/- p.m.”

3. Quite clearly, it has been established that the deceased was working in Delhi i.e. plying a rickshaw, which was seized by the police from the site of the accident. Therefore, the minimum wages notified for Delhi was rightly applied. The Court finds no reason to interfere with the impugned order. The appeal is without merit and is accordingly dismissed.

4. Statutory amount, alongwith interest accrued thereon, be deposited into the ‘AASRA’ fund.

SEPTEMBER 17, 2019

AB

NAJMI WAZIRI, J

नात्यमेव जयते