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

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Decided on: 06.09.2019

+ **MAC.APP. 930/2018 & CM APPL. 43271/2018**

BAJAJ ALLIANZ GENERAL INSURANCE CO LTD Appellant

Through: **Mr. A.K. Soni and Mr. Pavan Kumar,**
Advocates.

versus

JYOTI DEVI & ORS

..... Respondents

Through: **Mr. Anshuman Bal, Advocate for R-1**
to R-3.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J. (Oral)

1. The award of compensation dated 05.07.2018 in Suit No. 2239/16 passed by the learned MACT has been impugned on the ground that the evidence of the witness who subsequently turned hostile, was not taken into consideration. The same has been dealt by the learned Tribunal as under:

“16. A perusal of cross examination of PW2 shows that he was not confronted with any of his previous statement by counsel for the insurance company. The cross-examination of this witness took place in this court on 14.12.2017. The judgment of acquittal relied upon by the insurance company is dated 16.11.2017. The insurance company ought to have confronted the witness with his previous statement to elicit his response to the same, and the same having not been

done, the insurance company can not take advantage of any such statement. So far as, acquittal of R1 in the said criminal proceedings is concerned, the same was done by giving benefit of doubt and as per settled law, acquittal in criminal case has no bearing on the compensation case as the standard of proof in both the proceedings are different (see Oriental Insurance Co. Vs. Shama Praveen MACA 774/14 decided on 22.04.2018)”

2. The sole ground for the appeal is bellied from the record.
3. There is no merit in the appeal. It is accordingly dismissed. The balance amount of the awarded compensation lying deposited in this Court, shall be released to the beneficiaries of the award alongwith interest accrued thereon in terms of the scheme of disbursement specified therein.
4. Statutory amount of Rs. 25,000/-, along with interest accrued thereon , shall be deposited into the “AASRA” Fund.
5. Copy of this order be given *dasti* to the learned counsel for both the parties under the signature of the Court Master.

SEPTEMBER 06, 2019

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NAJMI WAZIRI, J