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

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Decided on: 14.11.2019

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MAC.APP. 1102/2018

SHRIRAM GENERAL INSURANCE CO LTD Appellant

Through: Mr. Arun Yadav, Advocate.

versus

POONAM DEVI & ORS

..... Respondents

Through: Mr. Peeush Sharma and Mr. Bharvi
Thakur, Advocates for R-1 to R-6.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J (Oral)

1. The appellant impugns the award of compensation dated 01.10.2018 passed by the learned MACT in MACP No. 27/16, on the ground that it has *suo moto* converted the claim petition filed under section 166-A of the Motor Vehicles Act, 1988 into a petition under section 163-A of the said Act, wherein an award for compensation of Rs. 5 lacs has been awarded in terms of the fixed schedule. The appellant is unable to show any justification for setting aside the Award. The only argument is that the order should not have been passed.

2. In the instant case, the insured vehicle crashed into a tree on 19.08.2015, its branch fell on the deceased, he sustained grievous injuries and subsequently succumbed to the injuries. For granting a just and reasonable compensation, the impugned order has reasoned as under:-

“14. I have gone through the testimony of the witnesses alongwith complete records. The petitioners have prayed amount towards compensation from respondents. It is argued by Ld counsel for respondents that petitioners have not suffered any monetary loss on account of the fatal accident and therefore, they are not entitled for compensation.

15 There is no dispute at all that deceased received fatal injuries due to the accident. The factum of accident as well as death is not denied. Section 163-A of the Act envisages grant of compensation to the legal heirs or the victims as indicated in the Second Schedule of the Act.

Section 163-A of the Act is extracted hereunder:-

"Section 163-A, special provisions as to payment of compensation on structured formula basis-

(1) Notwithstanding anything contained in this Act or in any other law for the time being in force or instrument having the force of law, the owner of the motor vehicle or the authorized insurer shall be liable to pay in the case of death or permanent disablement due to accident arising out of the use of motor vehicle, compensation, as indicated in the Second Schedule, to the legal heirs or the victim, as in the case may be."

In MAC. App. 304/2009 titled New India Assurance Co. Ltd. v/s Pitamber & Ors. decided on 23.01.2012, this court noticed the judgment of this court in Oriental Insurance Company Limited v/s Smt. Pataso & Ors., MAC App. 962/2005 decided on 01.09.2008; Oriental Insurance Company Limited v/s Om Prakash & Ors., 1 (2009) ACC 148; Jagdish & Anr. v/s Madhav Raj Mishra & Anr. MAC App. 190/11 decided on 19.04.2011; Oriental Insurance Company Limited v/s Anita Devi & Ors. 2011(5) AD (Delhi) 138, decided on 10.05.2011; and the Supreme Court judgment in Deepal Girishbhai Soni v/s United India Insurance Company Limited, (2004) 5 SCC 385; and opined that the compensation in a claim petition

under Section 163-A of the Act would be payable strictly as per the structured formula.

The judgment of the Karnataka High Court in A. Manavalagan (Supra) and of this Court in Keith Rowe (Supra) would not govern the grant of compensation under section 163-A of the Act.”

3. The Court finds no reason to interfere with the aforesaid reasoning.
4. This appeal is evidently a misuse of process of law. It has been filed without application of mind. Almost half a decade has gone by since the unfortunate unnatural demise of the kin of the claimants. They have not been given any succor by way of monetary relief. Instead they have been running through the arduous cause of litigation, having already suffered a grievous and irreparable loss, including appearances before this Court. In the circumstances, the appeal is dismissed with costs of Rs. 50,000/- to be paid by the appellant to the respondents.
5. The statutory amount, alongwith interest accrued thereon and the above mentioned costs shall be released to the respondents towards costs of this litigation, within three weeks of receipt of copy of this order.
6. The awarded amount shall be released to the beneficiaries of the Award, in terms of the scheme of disbursement specified therein.

NAJMI WAZIRI, J

NOVEMBER 14, 2019

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