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

\+ MAC.APP. 154/2021 & CM APPL. 12187/2021 & 7041/2024

USHA GUPTA & ORS .....Appellants

Through: Mr. Bhauva Arora and Ms. Versha Singh, Advocates.

versus

VIVEK RAGHAV & ORS (SHRI RAM GENERAL INSURANCE CO LTD) .....Respondents

Through: Ms. Meenakshi Midha and Ms. Samiksha Gupta, Advocates.

\+ MAC.APP. 173/2021 & CM APPL. 14019-20/2021

SHRIRAM GENERAL INSURANCE CO. LTD. .....Appellant

Through: Ms. Meenakshi Midha and Ms. Samiksha Gupta, Advocates.

versus

USHA GUPTA & ORS. .....Respondents

Through: Mr. Bhauva Arora and Ms. Versha Singh, Advocates.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

<u>O R D E R</u>

% **04.10.2024**

1. Appeal under Section 173 of the Motor Vehicles Act has been filed on behalf of the Insurance company wherein challenge has been raised to the income of the deceased being taken as Rs.19,580/- when in fact even as per the ITR which has been filed after the demise of the deceased, the gross income has been shown as Rs.2,35,726/-. Pertinently, the ITR for the year 2011-12 has been digitally signed by

the deceased i.e. after his demise. There is serious doubt about the authenticity of the contents of ITR. It is further submitted that the respondents themselves had averred that the income of the deceased was Rs.13,500/- per month. Neither from the documents nor from ocular evidence, has the respondent/claimant been able to show that the salary of the deceased was Rs.19,580/- per month as has been taken by the Tribunal for calculating the compensation.

2. An Application CM APPL.7041/2024 has been filed on behalf of the claimant/respondents under Order XLI Rule 27 read with Section 151 CPC for taking on record the additional documents by way of Income Tax Returns, Partnership Deed, I Cards, Mark Sheet, LIC Policies and such other Income Tax documents in order to corroborate the income of the deceased.

3. Both the parties agree that since there are additional documents on which reliance is placed by the claimant which had not been produced before the learned Tribunal, the case may be remanded back for adducing further evidence by the Claimants.

4. In view of the submissions made, the impugned Award in regard to proof of income and the calculation of compensation, is hereby set aside.

5. Parties are directed to appear before the learned Tribunal on 23.10.2024 whereby the learned Tribunal shall decide the income of the deceased to calculate the compensation afresh, after giving two opportunities to the claimants and one if required to the Insurance company. No further opportunity on any ground shall be granted to either party.

6. Since the claimants have come forth for production of additional documents, the learned Tribunal shall be at liberty to consider whether the claimants are entitled for interest for the period for which the Appeal was pending in this Court.

7. The Appeal is hereby disposed of.

NEENA BANSAL KRISHNA, J

OCTOBER 4, 2024
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