(2017) 11 DEL CK 0553

In the Delhi High Court

Case No : MAC. Appeal No. 223 Of 2012

Bajaj Allianz General Insurance Co. Ltd APPELLANT

Vs

Kishore Singh & Ors RESPONDENT

Date of Decision : 10-11-2017

Acts Referred:

Citation : (2017) 11 DEL CK 0553

Hon'ble Judges : R.K.Gauba, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

R.K.Gauba, J

1. Anu Singh, 45 years old, statedly working for gain as a beautician, died as a result of injuries suffered in a motor vehicular accident that took place

on 12.05.2008, on account of negligent driving of Eicher truck bearing registration no. HR 38M 3186, admittedly insured against third party risk with

the appellant (insurer) for the period in question at the instance of its owner (sixth respondent). On the accident claim case (suit no. 534/2010/2009),

instituted on 20.07.2009, the tribunal held inquiry and, by judgment dated 19.11.2011, returned a finding that the accident and death had occurred due

to negligence on the part of fifth respondent who was the driver of the said truck.

2. The tribunal awarded compensation in the total sum of Rs. 4,53,000/-, it inclusive of loss of dependency of Rs. 3,78,000/-directing the insurer to pay

the amount but accepting its plea of breach of terms and conditions of the insurance policy granted it recovery rights against the fifth and sixth

respondents.

3. The appeal was filed, inter alia, questioning the calculation of loss of

dependency and the directions to pay and then recover.

4. The appeal was put in the category of â??regularsâ??, to come up on its own turn as per order dated 02.02.2016. When it is called out, and taken

up for hearing there is no appearance on behalf of the appellant. On perusal of the record, this Court finds no error in the computation of

compensation. The tribunal has assumed the notional income with the help of minimum wages and on such basis calculated the loss of dependency.

The plea raised in the appeal for total exoneration cannot be accepted as third party interest cannot be defeated. The rights of the insurance company

having been protected by the recovery rights, it is not fair on its part to question the approach of the tribunal in this regard.

5. The appeal is dismissed.

6. By order dated 29.02.2012, the insurance company had been directed to deposit the entire awarded amount with upto date interest with the

Registrar General. By subsequent order dated 27.02.2013, 50% of the said amount was permitted to be released to the claimants. The balance lying in

deposit shall also now be released to the claimants.

7. Since the insurance company has failed to assist at the hearing, the statutory deposit shall be made over by the registry as costs to the Delhi High

Court Legal Services Committee.

