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

+ **MAC.APP. 34/2021**

ICICI LOMBARD GENERAL INSURANCE COMPANY LIMITED

..... Appellant

Through: Mr. Ankit Kalra, Advocate.

versus

DHARMENDER KHURANA & ORS.

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

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19.01.2021

CM APPL.2021/2021(exemption)

Exemption is allowed subject to all just exceptions.

MAC.APP. 34/2021 & CM APPL.2020/2021(stay)

1. The hearing was conducted through video conferencing.
2. Appellant impugns Award dated 14.09.2020, whereby the Claim Petition filed by the respondents no. 1 to 3 has been allowed and compensation awarded.
3. As per the Claim Petition, subject accident occurred on 19.02.2017 when the deceased was coming to Delhi from Jind after attending the marriage of sister of common friend in the offending vehicle which was being driven by respondent no.4.



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4. It is contended by learned counsel for the appellant that there is nothing on record to show that the vehicle was being driven in a rash and negligent manner or that the driver was negligent. He further submits that the income of the deceased has not been established inasmuch as he was still a student.

5. Issue notice to respondents no. 1 to 3. Since there is no relief claimed against respondents no. 4 and 5, who are driver and owner of the vehicle, service of respondents no. 4 and 5 is discharged at this stage.

6. Perusal of the judgment *prima facie* shows that the Tribunal has attributed negligence on the basis of the photographs which were exhibited as Ex.PW.1/47 which clearly established that the offending vehicle had hit the side railing at the highway and had got stuck in the railing after hitting the same. The Tribunal has opined that the manner in which the accident took place fortifies the fact that the offending car was being driven at an extremely high speed and it collided with the railing as the driver could not control the car.

7. Further with regard to the income of the deceased, the Tribunal has noticed the evidence wherein it was established that even while the deceased was doing his internship, he was given an offer of Rs.9.3 lakhs per annum for appointment as a Computer Scientist.

8. In view of the above, the appellant is directed to deposit the entire awarded amount with the Tribunal within a period of four weeks from today. However, the Tribunal shall release upto a



maximum of 50% of the awarded amount in terms of the scheme of disbursal as provided by the subject Award and the balance amount shall be kept in an interest-bearing fixed deposit.

9. Digital Copy of the Tribunal's Record be requisitioned.

10. List on 22.07.2021.

11. Copy of the order be uploaded on the High Court website and be also forwarded to learned counsels through email by the Court Master.

SANJEEV SACHDEVA, J

JANUARY 19, 2021

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