



\$~28

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

+ **MAC.APP. 955/2019**

NATIONAL INSURANCE CO LTD Appellant
Through: **Mr. D.K.Sharma, Advocate.**

versus

MAYA DEVI & ORS Respondents
Through: **None.**

CORAM:
HON'BLE MR. JUSTICE SANJEEV SACHDEVA

% **ORDER**
17.02.2021

CM APPL.5685/2021

1. The hearing was conducted through video conferencing.
2. Since notice has not yet been issued in the appeal, the application for early hearing is allowed.
3. The appeal is taken up for consideration today.

MAC.APP. 955/2019

1. Appellant impugns award dated 01.10.2019 whereby the claim petition filed by the respondents has been allowed and compensation awarded.



2. Learned counsel for the appellant contends that the deceased was the son of the claimant and the motorcycle he was riding was owned by father, respondent No.6.

3. Learned counsel submits that the accident occurred because the motorcycle struck against a divider and no other vehicle was involved. Learned counsel submits that in view of the said fact, deceased would step into the shoes of the owner having borrowed the motorcycle from his father and no compensation would be payable especially in view of the fact that no other vehicle was involved in the accident and there was no negligence attributable to any third party.

4. Learned counsel relies on the decision of the Supreme Court in *Ningamma & Anr vs. United India Insurance Co. Ltd*, (2009) 13 SCC 710. Learned counsel submits that the said judgment has been consistently followed by later judgments of the Supreme Court. Reference is made to the judgment in *Ramkhiladi vs. United India Insurance Co.* (2020) 2 SCC 550.

5. Learned counsel for the appellant submits that the amount has already attached by the Tribunal in execution proceedings.

6. Issue notice to the respondents, returnable on 05.05.2021.

7. In the meantime, in case the amount has not been disbursed, the Tribunal shall not disburse the amount till the next date of hearing.



8. Digital copy of the Tribunal's record be requisitioned.
9. 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

FEBRUARY 17, 2021

rk