

* **HIGH COURT OF DELHI : NEW DELHI**

MAC APPEAL No.527 of 2007

% Judgment reserved on: 8th May, 2008

Judgment delivered on: 13th May, 2008

United India Insurance Company Ltd.,
Regional Office-I,
8th Floor, Kanchan Junga Building,
Bara Khamba Road,
Connaught Place, New Delhi

Through its Deputy Manager
Delhi Regional Office-I
Bara Khamba Road,
Connaught Place, New Delhi ...Appellant

Through: Mr. Abhishek Kumar, Adv.

Versus

1. Sardar Charanjit Singh,
S/o. Shri Gurdayal Singh,
2. Smt. Harjinder Kaur,
W/o. Sardar Charanjit Singh
Both R/o. RZ-26,
Narsingh Garden, Khayala,
New Delhi-18 Respondents

Through: Mr. Nirmal Singh, Adv. for
R-1 & 2.

Coram:

HON'BLE MR. JUSTICE V.B. GUPTA

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| 1. Whether the Reporters of local papers may be allowed to see the judgment? | No |
| 2. To be referred to Reporter or not? | No |
| 3. Whether the judgment should be reported in the Digest? | No |

V.B.Gupta, J.

The appellant in this case has filed the present appeal under Section 173 of Motor Vehicle Act, 1988 (for short as 'Act') against judgment dated 19th May, 2007 passed by Sh. Dilbag Singh, Judge MACT, Delhi.

2. The deceased has died in a road accident and claim petition was filed on behalf of his Legal Heirs. Vide the impugned judgment, learned Tribunal has passed an award in the sum of Rs.3,08,800/- along with 7% p.a. interest.

3. Aggrieved against the impugned order, the insurance company has filed the present appeal.

4. Learned counsel for respondent has taken a preliminary objection contending that the present appeal is not maintainable since the appellant has not obtained permission under Section 170 of the Act.

5. Learned counsel for the appellant does not dispute this fact.

6. Section 170 of the Act reads as under:-

“170. Impleading insurer in certain cases.- Where in the course of any inquiry, the Claims Tribunal is satisfied that –

(a) there is collusion between the person making the claim and the person against whom the claim is made, or

(b) the person against whom the claim is made has filed to contest the claim,

it may, for reasons to be recorded in writing, direct that the insurer who may be liable in respect of such claim, shall be impleaded as a party to the proceeding

and the insurer so impleaded shall thereupon have, without prejudice to the provisions contained in subsection (2) of section 149, the right to contest the claim on all or any of the grounds that are available to the person against whom the claim has been made.”

7. It is well-settled that when permission of the Tribunal to contest the claim on merits had not been obtained as per requirement, the insurer cannot be permitted to challenge the award on merits. Further, the insurance company in appeal is not entitled to challenge the award on merit, i.e., on the question of negligence and quantum, unless the conditions enacted in section 170 of the Act are complied with.

8. Here, the appellant has filed the present appeal challenging the award on quantum only. Since no permission under Section 170 of the Act has been granted, the insurance company cannot take this plea in the appeal.

9. Hence, the present appeal under these circumstances is not maintainable and the same is hereby dismissed.

10. No order as to costs.

**V. B. GUPTA
(JUDGE)**

**13th May, 2008
rs**