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

Date of decision: 16th January, 2015

+ **MAC.APP. 54/2015**

SMT. SANGEETA VATS & ORS. Appellants

Through: Mr. Nitin Yadav, Adv.

versus

IFFCO-TOKIO GENERAL INSURANCE COMPANY LTD. &
ANR. Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE G.P.MITTAL

G. P. MITTAL, J. (ORAL)

CM.APPL.840/2015 (Exemption)

Exemption allowed, subject to all just exceptions.

Application stands disposed of.

MAC.APP. 54/2015 and CM APPL.839/2015 (delay)

1. The appeal is directed against the judgment dated 06.07.2013 passed by the Motor Accident Claims Tribunal (the Claims Tribunal), whereby the Claim Petition filed by the Appellants, who are the legal representatives of deceased Pawan Kumar Vats was dismissed.

2. As per the averments made in the Claim Petition, deceased Pawan

Kumar Vats had taken TSR bearing registration no.DL-1RG-5742 on

rent from its owner. While deceased Pawan Kumar Vats was driving the earlier said TSR on 08.01.2011, at about 11:30 p.m. near AIIMS Hospital, it met with an accident with an unknown vehicle.

3. It is the case of the Appellants that the said vehicle could not be traced. The Claims Tribunal relying on *Ningamma & Anr. v. United India Insurance Company Limited*, (2009) 13 SCC 710; *New India Assurance Company Limited v. Sadananad Mukhi & Ors.*, AIR 2009 SC 1788 and a judgment of this Court in *Royal Sundaram Alliance Insurance Company Limited v. Smt. Manju*, MAC APP.639/2009, decided on 09.10.2012 held that deceased Pawan Kumar Vats had stepped into the shoes of the owner by hiring the TSR and even in a Petition under Section 163-A of the Motor Vehicles Act, 1988, the insurer of the vehicle was not liable to pay any compensation as the owner of the vehicle was not the tortfeasor of the offending vehicle.
4. The contention raised on behalf of the Appellant that the deceased was a third party is misconceived. The case is squarely covered by the judgements of the Supreme Court and this Court.
5. The appeal is devoid of any merit; the same is accordingly dismissed.

6. Pending application also stands disposed of.

(G.P. MITTAL)
JUDGE

JANUARY 16, 2015
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