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

Date of decision: 3rd February, 2015

\+ **MAC.APP. 1115/2014**

REENA DEVI & ORS ..... Appellants

Through: Mr. Kunal Rawat, Adv.

versus

SHYAM SUNDER & ANR (IFFCO-TOKIO INSURANCE CO LTD) ..... Respondents

Through: Nemo.

CORAM:
HON'BLE MR. JUSTICE G.P.MITTAL

G. P. MITTAL, J. *(ORAL)*

1. It is admitted by the learned counsel for the Appellants that in the instant case, Pappu Kumar, who was owner of the vehicle bearing no.HR-55E-6367 and was sitting along with the driver of the vehicle at the time of the unfortunate accident and had suffered serious injuries, was declared brought dead in the hospital on the same day *i.e.* on 29.09.2013.

2. The Motor Accident Claims Tribunal (the Claims Tribunal) referred to the judgment of the Andhra Pradesh High Court in *United India Insurance Company Limited v. Sharapuram Balavva & Ors., 2014 (2) TAC 364 (AP);* as well as the reports of the Supreme Court in *Uttar*

Pradesh State Road Transport Corporation v. Kulsum & Ors., 2011 ACJ (SC) 2145; Rajasthan State Road Transport Corporation v. Kailash Nath Kothari & Ors., (1997) 7SCC 481; Guru Govekar v. Filomena F. Lobo & Ors., (1988) ACJ 585; and *Dhanraj v. New India Assurance Company Limited, 2005 ACJ 1 SC* and on the basis of the settled proposition of law, concluded that it is only third party risk which is liable to be covered under Section 147 of the Motor Vehicles Act, 1988.

3. The Claims Tribunal also noted that even under comprehensive policy, the risk is covered with regard to own damage to the vehicle and not to personal injury to the insured. The Claims Tribunal further referred to the judgment in *New India Assurance Company Limited v. Sadanand Mukhi & Ors. (2009) 2 SCC 417* also.

4. The Claims Tribunal further noted that in the instant case, an additional premium of Rs.100/- had been paid towards "PA, owner and driver". However, it was noted that the owner himself was not driving the vehicle but he was simply accompanying the driver.

5. The coverage of owner/driver as per the tariff was upto to Rs.2,00,000/- in case the owner was driving the vehicle.

6. The Claims Tribunal noted all the judgments and held that no risk of deceased Pappu Kumar was covered under the policy. The Claim Petition was, therefore, rightly dismissed by the Claims Tribunal by the order dated 23.07.2014.

7. The appeal therefore, has to fail; the same is accordingly dismissed.

8. Pending application also stands disposed of.

(G.P. MITTAL)
JUDGE

FEBRUARY 03, 2015
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