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

Date of Decision: 25th April, 2016

\+ **MAC.APP. 63/2013 & CM Nos.17637/2013, 17638/2013**

NEW INDIA ASSURANCE CO.LTD. ..... Appellant

Through: Mr. P. Acharya, Adv.

versus

DHRAMSHILA & ORS. ..... Respondents

Through: None.

CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT

R.K.GAUBA, J (ORAL):

1. The insurance company, while resisting the accident claim case (MAC no.336/2010) preferred by the first respondent on 01.06.2010 seeking compensation for injuries suffered by her in a motor vehicular accident that occurred on 12.07.2008 involving the vehicle (motorcycle) bearing registration no. TN-69W-8565, concededly insured against third party risk with, had taken the plea of breach of terms and conditions of the policy on the ground that there was no valid permit held by the third respondent (the owner/insured of the offending vehicle). This contention was upheld. The insurance company was directed to satisfy the award but granted recovery rights by judgment dated 10.10.2012.

2. By appeal at hand, the insurance company submits that instead of being asked to satisfy, it should have been exonerated.

3. The contention of the insurance company must be rejected as the rights of the third party cannot be defeated. Since the interests of the appellant are secured by the grant of recovery rights, the appeal is unmerited and is liable to be dismissed [*National Insurance Company V. Swaran Singh* (2004) 3 SCC 297 & *United India Insurance Company Ltd. V. Lehru & Ors.* (2003) 3 SCC 338].

4. By order dated 22.01.2013, the insurance company had been directed to deposit the entire awarded amount with UCO Bank, Delhi High Court branch, fifty percent whereof was released and balance having been kept in fixed deposit receipt. The balance shall also now be released.

5. The statutory amount, if deposited, shall be refunded.

6. The appeal is disposed of in above terms.

R.K. GAUBA
(JUDGE)

APRIL 25, 2016
ssc