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

Date of Decision: 4th April, 2016

+ **MAC.APP. 59/2013**

NEW INDIA ASSURANCE CO. LTD. Appellant
Through: Mr. Sameer Nandwani, Adv.

versus

PAWAN KUMAR JAISWAL & ORS Respondents
Through: Mr. Pradeep C. Sati, Adv.

+ **MAC.APP. 62/2013**

NEW INDIA ASSURANCE CO. LTD. Appellant
Through: Mr. Sameer Nandwani, Adv.

versus

URMILA DEVI @ SEEMA DEVI & ORS Respondents
Through: Mr. Pradeep C. Sati, Adv.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT

R.K.GAUBA, J (ORAL):

1. On the claim petitions (MAC petitions 337/2010 & 335/2010) preferred by the first respondents in these two appeals for injuries suffered by each of them in a motor vehicular accident that had occurred on 12.07.2008 involving motor vehicle described as Tata 407 bearing registration No. TN 69 W 8565 (offending vehicle), after inquiry, the motor accident claims tribunal (the tribunal) passed a common judgment on

10.10.2012 (also governing a third accident claim case of Dharamshila MAC petition No. 336/2010) granting compensation, directing the appellant insurance company (insurer) to pay though upholding its contention about breach of terms and conditions of the policy and, thus, also granting recovery rights.

2. By the appeals at hand, the only ground raised by the insurer is that instead of being called upon to indemnify, it should have been exonerated. Since the interest of the insurer was duly protected by grant of recovery rights, the plea raised affecting the interest of the third party cannot be accepted. [*National Insurance Company V. Swaran Singh* (2004) 3 SCC 297 & *United India Insurance Company Ltd. V. Lehu & Ors.* (2003) 3 SCC 338]

3. The appeals are unmerited and liable to be dismissed.

4. By identical orders passed on 21.01.2013 and 22.01.2013, the insurer had been directed in these appeals to deposit the awarded compensation with upto date interest from out of which 50% was allowed to be released. The balance lying in fixed deposit receipt with UCO Bank, Delhi High Court Branch shall also be now released. The Registrar General shall take necessary steps in this regard.

5. Statutory deposits, if made, shall be refunded.

6. The appeals are disposed of in above terms.

R.K. GAUBA
(JUDGE)

APRIL 04, 2016
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