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

Date of Decision: 4th April, 2016

+ **MAC.APP. 190/2014**

MOHD WASIK & ANR

..... Appellant

Through None

versus

MOHD ASIF & ORS

..... Respondent

Through Mr. Pankaj Gupta, Adv. for Ms.
Suman Bagga, Adv. for R-3

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT

R.K.GAUBA, J (ORAL):

1. The appellants had preferred an accident claim case before the tribunal on 04.04.2012 when it was registered as suit No.166/2012. In the said case it was alleged that their son Mohd. Taufiq Alam had suffered untimely death on 08.03.2012 on account of injuries suffered in a motor vehicular accident that had occurred involving motorcycle No.DL 3S 9340 allegedly driven in rash/negligent manner by Mohd. Asif (first respondent). It was stated that the said motorcycle was owned by Jitender Singh (second respondent) and was insured against third party risk with the third respondent (ICICI Lombard General Insurance Co. Ltd.).
2. The tribunal, by judgment dated 03.10.2013, awarded compensation in the sum of ₹8,84,829/- with interest in favour of the claimants

(appellants) holding the first and second respondents herein to be jointly and severally liable. The insurance company had taken the plea that the driver (first respondent) was not holding a valid/effective driving license. This contention was upheld on the basis of evidence led and, thus, the insurance company which was asked to satisfy the award, was granted recovery rights against first and second respondent herein.

3. The claimants brought this appeal in February, 2014 seeking enhancement on which notices were directed to be issued. In spite of repeated opportunities granted by the Registrar, the claimants have failed to take requisite steps for service of first and second respondents. The Registrar made a report to this effect on 01.10.2015 seeking further directions from the Court.

4. On 27.11.2015, the counsel for the claimants had made a request for adjournment. The matter was, thus, adjourned for today. Today, in spite of the matter having been passed over several times and called repeatedly no one has appeared for the appellants. The appeal insofar as it is directed first and second respondents is, thus, dismissed for non-prosecution. In the result, the appeal is rendered bad on account of non-joinder of necessary parties against the insurance company and is dismissed accordingly.

R.K. GAUBA
(JUDGE)

APRIL 04, 2016
VLD