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

Date of Decision: 20th May, 2016

\+ **MAC.APP. 421/2013**

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

Through: Mr. J. P. N. Shahi, Adv.

versus

SMT FARIDA & ORS ..... Respondents

Through: Mr. Ashwini Kumar, Adv. for R-5.

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

JUDGMENT

R.K.GAUBA, J (ORAL):

1. On the claim petition of first to fourth respondents (the claimants), instituted on 18.10.2011 invoking Section 163-A of the Motor Vehicles Act, 1988 (the MV Act) registered as MACT no.209/12/11, the motor accident claims tribunal (the tribunal), by judgment dated 04.04.2013, returned the finding that Sarif, aged 40 years had died in a motor vehicular accident that occurred involving use of motor vehicle bearing registration no.HR-55M-2022 and awarded compensation, calling upon the insurer to pay, it having concededly issued an insurance policy covering such risk in respect of vehicle for the period in question.

2. The insurance company had pleaded before the tribunal that there was a breach of terms and conditions of the insurance policy as the driver (the

deceased himself) did not hold a valid or effective driving license. This plea was rejected by the tribunal, which view is assailed by the appeal at hand.

3. Having regard to the fact that the claim petition had been brought before the tribunal under Section 163-A of the MV Act in which proceedings the issue of negligence does not even arise for consideration, it cannot be said that the absence of a driving license had contributed to the cause for accident resulting in the plea of insurance company to be accepted [*National Insurance Company V. Swaran Singh* (2004) 3 SCC 297].

4. The appeal is unmerited and therefore dismissed.

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

R.K. GAUBA
(JUDGE)

MAY 20, 2016
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