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

Date of Decision: 02.05. 2016

+ **MAC.APP. 451/2007**

NATIONAL INSURANCE CO. LTD. Appellant
Through: Mr. Shoumik Mazumdar, Advocate

versus

SUNITA DEVI AND ORS Respondents
Through:

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

JUDGMENT

R.K.GAUBA, J (ORAL):

1. On the claim petition (suit no.64/2006) instituted on 17.11.2005 by the first to fifth respondents (claimants), the Motor Accident Claims Tribunal (tribunal), by judgment dated 20.04.2007, awarded compensation in the sum of ₹ 8,23,000/- with interest in their favour, on account of death of Dheeraj Singh in a motor vehicular accident that had occurred on 22.08.2005 involving negligent driving of a truck bearing registration no.HR 46A 1020 (offending vehicle) and directed the appellant insurance company (insurer) to satisfy the award, it having issued policy against third party risk in its respect in the name of the seventh respondent (owner). Accepting the case of the insurer that the cheque issued by the owner of the offending vehicle having been returned unpaid and the insurance company having later

cancelled the insurance policy by communication (Ex. R3W1/7) , it was granted rights to recover the payment thus made.

2. By the appeal at hand, the insurer insists that instead of being granted recovery rights after payment of compensation, it should have been fully exonerated.

3. In terms of the order dated 27.07.2007, the insurance company has already deposited 50% of the awarded compensation with interest which has already been released to the claimants. In the given facts and circumstances of the case, the insurer having admittedly issued an insurance policy against third party risk, there is no reason why the rights of third party be affected. The insurance policy having been issued, the insurer must satisfy the award in favour of the third party. Its interest are duly protected by grant of recovery rights.

5. Thus, the appeal is unmerited and dismissed.

6. The appellant insurer shall now satisfy the award fully by depositing the balance with the tribunal with upto date interest, whereupon it shall be released to the claimants in terms of the impugned judgment. Statutory amount shall be refunded after the award has been satisfied in favour of the claimants.

R.K. GAUBA
(JUDGE)

MAY 02, 2016
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