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

Date of Decision: 7th April, 2016

+ **MAC.APP. 634/2014 & CMNos. 11335-36/2014**

ORIENTAL INSURANCE CO. LTD. Appellant
Through: Mr. Pradeep Gaur, Adv.

versus

HARVINDER YADAV & ORS Respondents
Through: Mr. Manish Mainee, Adv. for R-1.

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

JUDGMENT

R.K.GAUBA, J (ORAL):

1. The appeal at hand was submitted questioning the interim award under Section 140 of Motor Vehicles Act, 1988 (MV Act) granted by the motor accident claims tribunal (the tribunal) by order dated 10.01.2014 in the accident claim case (MACT case No. 126/2010) preferred by the first respondent seeking compensation for the injuries suffered by him in the motor vehicular accident involving a motor vehicle which is stated to be subject to third party insurance policy.

2. The insurance company having first admitted the insurance cover, later appears to have taken the position that the cheque which was tendered for payment of premium had been returned dishonoured by the bank and thus, in absence of consideration there was no risk undertaken. The insurer submitted before this Court on 18.07.2014 that it was inclined to deposit the

amount awarded as interim compensation. By order passed on the said date, it was directed that the amount thus deposited may be released to the claimant subject to final determination of the claim of the appellant by the tribunal, this further conditional upon the claimant furnishing an undertaking to abide by further orders regarding the amount in question by the tribunal.

3. The learned counsel for the appellant submits that since the main claim under Section 166 of MV Act is still pending adjudication, the amount thus deposited may be directed to be subject to the final outcome of the said claim case. The counsel for the claimant, on the other hand, submits that he has already submitted an affidavit in terms of the order dated 18.07.2014 and undertakes to abide by the directions in the final judgment to be passed by the tribunal.

4. In view of the above nothing survives in the appeal. It is disposed of accordingly.

5. Statutory amount, if deposited, shall be refunded.

R.K. GAUBA
(JUDGE)

APRIL 07, 2016
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