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

Date of Decision: 7th April, 2016

\+ **MAC.APP. 294/2016& CM No.12937-39/2016**

SHRIRAM GENERAL INSURANCE CO LTD.

..... Appellant

Through: Mr. Sameer Nandwani, Adv.

versus

POONAM AND ORS. ..... Respondents

Through: None.

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

JUDGMENT

R.K.GAUBA, J (ORAL):

1. On her claim petition (MACT case No. 50/2011), instituted on 31.01.2011, the first respondent (claimant) has been awarded compensation in the sum of Rs. 3,75,000/- with interest on account of death of her minor child Dhruv, aged 6 years, as a result of injuries suffered in a motor vehicular accident that had occurred on 21.12.2010 at about 11 p.m. involving negligence driving of tanker bearing registration No. HR 55 2626 (the offending vehicle) insured against third party risk with the appellant insurance company (insurer) which has been fastened with the liability to pay.

2. The insurance company is in appeal only to submit that it should have been exonerated of the liability since it had proved to the satisfaction

of the tribunal that there was breach of terms and conditions of the insurance policy inasmuch as the driver of the offending vehicle was not holding a valid or effective driving license and there was no valid permit held. The counsel at the same time fairly conceded that recovery rights have been granted by the tribunal. In this view, the appeal does not deserve to the entertained. The rights of the insurer are duly protected. There is no case made out for exoneration as that would adversely affect the third party rights [*National Insurance Company V. Swaran Singh* (2004) 3 SCC 297 and *United India Insurance Company Ltd. V. Lehru & Ors.* (2003) 3 SCC 338]

3. The appeal is found devoid of substance. It with accompanying applications is dismissed in *limine*.

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

R.K. GAUBA
(JUDGE)

APRIL 07, 2016/nk