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

Date of Decision: 7th April, 2016

\+ **MAC.APP. 296/2016& CM No.12946-48/2016**

SHRIRAM GENERAL INSURANCE CO LTD. ..... Appellant

Through: Mr. Sameer Nandwani, Adv.

versus

LAXMAN DASS GOEL AND ORS. ..... Respondents

Through: None.

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

JUDGMENT

R.K.GAUBA, J (ORAL):

1. The accident claim case (MACT case No. 54/2011) filed by the first respondent on 31.01.2011 was inquired into by the motor accident claims tribunal (the tribunal) clubbing it with several other similarly placed cases relating to the cause of action arising out of the motor vehicular accident that had occurred at about 11 p.m. on 21.12.2010, statedlly involving rash driving of motor vehicle described as tanker bearing No. HR 55 2626 (the offending vehicle), which was concededly insured against third party insurance for the period in question with the appellant insurance company (insurer). It was found that the claimant (first respondent) has suffered multiple abrasions over the face he having remained under treatment from December, 2010 till October, 2011. In the overall conspectus of facts and

circumstances before the tribunal, it assessed and awarded compensation in the sum of Rs. 25,000/- to take care of treatment expenses, mental agony, pain & suffering etc.

2. At the hearing on admission of the appeal, the learned counsel for the appellant submitted that the quantum is not challenged, only exoneration being sought since there was breach of terms and conditions of the insurance policy as the driver of the offending vehicle was not holding a valid and effective driving license and since there was no valid permit taken out in its respect. It is noted that the tribunal considered the plea of breach of terms and conditions of the policy in (pages 39-41) the impugned judgment and returned a finding in favour of the insurance company. The tribunal did not, however, exonerate the insurance company and instead called it upon to satisfy the award granting it recovery rights against the owner of the offending vehicle.

3. In the considered view of this Court, the tribunal has taken an appropriate view. The rights of the third party cannot be defeated. Since the interest of the insurer has been duly protected, there is no case made out for interference [see *National Insurance Company V. Swaran Singh* (2004) 3 SCC 297 and *United India Insurance Company Ltd. V. Lehru & Ors.* (2003 3 SCC 338].

4. The appeal with accompanying applications are dismissed in *limine.*

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

R.K. GAUBA
(JUDGE)

APRIL 07, 2016/nk