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

Date of Decision: 4th April, 2016

+ **MAC.APP. 713/2013**

SHRIRAM GENERAL INSURANCE CO. LTD. Appellant

Through: Mr. A.K. Soni, Adv.

versus

SATISH KUMAR & ORS Respondents

Through: Mr. M.K. Dhingra, Proxy Adv. for R-
3.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT

R.K.GAUBA, J (ORAL):

1. By judgment dated 09.05.2013, the motor accident claims tribunal (tribunal) decided accident claim case (registered as Suit No. 83/2012) and granted compensation in the sum of ₹ 2,14,347/- with interest in favour of the first respondent (claimant) on account of injuries suffered by him in a motor vehicular accident which occurred on 23.02.2012 involving motor vehicle described as motorcycle bearing registration No. DL 1LM 0982 (the offending vehicle) owned by the third respondent (owner/insured) and driven by the second respondent (the driver), it admittedly having been insured against third party risk with the appellant insurance company (insurer) for the period in question. The insurer had, *inter alia*, taken the plea before the tribunal that there was breach of terms and conditions of the

insurance policy as the driver was not holding a valid or effective driving licence. This contention was found to be correct. The insurer was directed to satisfy the award of compensation in favour of the third party but granted recovery rights against the owner/insured.

2. By the appeal at hand, the insurer submits that instead of being called upon to indemnify it should have been fully exonerated.

3. Having heard arguments, the appeal is found to be unmerited. Since the interest of the insurance company is duly protected by the directions in the impugned judgment, the plea of exoneration which would affect the third party cannot be accepted. [*National Insurance Company V. Swaran Singh (2004) 3 SCC 297 & United India Insurance Company Ltd. V. Leheru & Ors. (2003) 3 SCC 338*].

4. The appeal is dismissed.

5. Statutory deposit, if made, shall be refunded.

R.K. GAUBA
(JUDGE)

APRIL 04, 2016

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