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

Date of Decision: 05th May, 2016

\+ **MAC.APP. 833/2013**

ICICI LOMBARD GENERAL INSURANCE CO LTD ..... Appellant

Through Mr. A K Soni, Adv.

versus

SMT KANCHAN & ORS ..... Respondent

Through Mr. Abanikanta Sahu, Adv.

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

JUDGMENT

R.K.GAUBA, J (ORAL):

1. While awarding compensation in favour of the first and second respondents (claimants) on their claim case (suit No.109/10) on account of death of Smt. Sugni in motor vehicle accident that occurred on 16.06.2009 due to negligent driving of vehicle No.DL 1LH 0826 (offending vehicle) admittedly insured with the third party risk with the appellant insurance company for the period in question, by judgment dated 06.07.2013, while being asked to satisfy the award, its plea about breach of terms and conditions of the insurance policy was rejected. It is this result of the case which is under challenge by the insurance company which insists that since the driver (third respondent) of the offending vehicle was holding a driving

license only for light motor vehicle (non-transport), the offending vehicle admittedly being a light motor vehicle (commercial), finding of breach resulting in exoneration should have been returned.

2. The appeal is found unmerited. The breach shown by the above facts cannot constitute a fundamental breach or one which could be taken as having contributed to the cause of accident [*National Insurance Company V. Swaran Singh* (2004) 3 SCC 297 and *United India Insurance Company Ltd. V. Lehru & Ors.* (2003 3 SCC 338]

3. Thus, the appeal is dismissed. The insurance company is held liable to satisfy the award which it must do, unless already done, by requisite deposit with the tribunal.

4. The statutory deposit, if made, shall be released by the registry after confirming that the award has been satisfied.

R.K. GAUBA
(JUDGE)

MAY 05, 2016
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HIGH COURT OF DELHI
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