$~R-100 &101

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

Date of Decision: 23.05.2016

\+ **MAC.APP. 706/2007**

NATIONAL INSURANCE COMPANY LTD. ..... Appellant

Through Mr. Pankaj Seth, Adv.

versus

JANARDHAN PANDEY AND ORS. ..... Respondent

Through None

\+ **MAC.APP. 707/2007**

NATIONAL INSURANCE COMPANY LTD. ..... Appellant

Through Mr. Pankaj Seth, Adv.

versus

ASHA DEVI AND ORS. ..... Respondent

Through None

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

JUDGMENT

R.K.GAUBA, J (ORAL):

1. On their respective claim petitions, registered as suit Nos.46/06 and 45/06 respectively, the first respondents in these appeals were granted compensation by the motor accident claims tribunal (tribunal) by common judgment dated 02.08.2007 for the injuries suffered in motor vehicular

accident that occurred on 02.10.2005, statedly involving negligent driving of tempo bearing registration No.DL 1LB 5675 (the offending vehicle) owned by Ram Sahai (third respondent), it having been driven by Kishan (second respondent in these appeals).

2. The appellant insurance company (insurer) had issued cover note on the basis of premium tendered by cheque. The cheque having been dishonoured, it proceeded to issue a notice of cancellation of the insurance contract. On the basis of these facts, the insurance company contested the claim cases denying its liability to indemnify.

3. The tribunal found, on facts, the plea of the insurance company to be correct. On this basis, it held that the insurance company could not be asked to indemnify. None the less, the insurer was directed to pay the compensation to the claimants but granted rights to recover the amounts from the insured (owner of the offending vehicle).

4. By the appeals at hand, the insurance company contended that instead of being asked to satisfy the award, it should have been exonerated.

5. In terms of the interim orders, the insurance company has already deposited the compensation granted by the tribunal under the impugned awards. In the given facts and circumstances, the insurance company having issued a cover note, the view taken by the tribunal does not call for any interference. The approach of the tribunal is in accord with settled norms [*United India Insurance Company Ltd. V. Lehru & Ors.* (2003 3 SCC 338] The interest of the insurance company is duly protected by the recovery rights already granted to it. For enforcing the recovery rights, the insurance company may take out appropriate proceedings before the tribunal.

6. The amounts deposited shall be released to the claimants, unless already so done.

7. The appeals are disposed of in above terms.

(R.K. GAUBA)
JUDGE

MAY 23, 2016
VLD