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

Date of Decision: 10th May, 2016

\+ **MAC.APP. 868/2013**

UNITED INDIA INSURANCE CO LTD ..... Appellant

Through: Mr. P. Acharya, Adv.

versus

JAMNA DEVI AND ORS ..... Respondents

Through: None.

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

JUDGMENT

R.K.GAUBA, J (ORAL):

1. By judgment dated 14.08.2013, the motor accident claims tribunal (the tribunal) awarded compensation in favour of the first respondent on account of death of Siri Ram in a motor vehicular accident that occurred on 26.12.2007 involving negligent driving of a three wheeler scooter bearing registration no.DL-1RH-1235 (TSR), admittedly insured against third party risk with the appellant/insurance company (the insurer). In the course of the inquiry into the claim petition (suit no.424/2008), which had been instituted on 29.01.2008, the insurance company had pleaded breach of terms and conditions of the insurance policy on the ground that the driver of the TSR (third respondent) was not holding a valid or effective license. This

contention was upheld and the breach having been found to be proved, the insurance company though directed to satisfy the award in favour of third party was granted recovery rights.

2. By appeal at hand, the insurer submits that instead of being asked to satisfy the award, it should have been exonerated.

3. The contention of the insurer only needs to be noted to be rejected. The third party rights cannot be defeated. The interests of the appellant are duly secured by the recovery rights [*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 is dismissed.

5. The statutory deposit, if made, shall be refunded.

R.K. GAUBA
(JUDGE)

MAY 10, 2016
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