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

Date of Decision: 2nd March, 2016

\+ **MAC.APP. 153/2013**

SHRIRAM GENERAL INSURANCE COMPANY LTD.
..... Appellant

Through: Mr. P. Acharya & Mr. Sameer Nandwani, Advs.

versus

SULEKHA SHARMA & ORS ..... Respondents

Through: Mr. S. K. Jha, Adv. for R-1 to 5.

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

JUDGMENT

R.K.GAUBA, J (ORAL):

1. By judgment dated 27.08.2012, the motor accident claims tribunal (the tribunal) while deciding the claim petition of first to fifth respondents under Sections 166 & 140 of the Motor Vehicles Act, 1988 (the MV Act) registered as suit no.33/2011 awarded compensation in the sum of ₹40,73,400/- with interest at the rate of nine percent (9%) from the date of filing of the petition till realization and directed the appellant/insurance company to pay the said amount under the indemnity clause of the insurance policy taken out by Jai Prakash (sixth respondent herein), the registered owner (the insured) of the offending vehicle described as tanker bearing registration no.HR-63-6491 on account of whose negligent driving the accident had occurred resulting in death of Sanjay Kumar. The insurance

company was granted recovery rights against the insured on its plea that there has been breach of terms and conditions of the insurance policy in as much as the driver of the offending vehicle was holding a fake driving license being upheld.

2. The insurance company by the appeal at hand presses only one issue that in the facts and circumstances found it should have been fully exonerated.

3. Having heard the learned counsel for the appellant, this court finds no merits in the appeal bearing in mind the law laid down by the Supreme Court in *United India Insurance Company Ltd. vs. Lehru & Ors.* (2003) 3 SCC 338 and *Insurance Company vs. Swaran Singh* (2004) 3 SCC 297, the insurance company has been rightly directed to pay the compensation to the third party (the claimant) and has been rightly granted the recovery rights which duly protects its interest. The appeal is, thus, dismissed.

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

5. By order dated 15.02.2013, the insurance company was directed to deposit the entire awarded amount with up-to-date interest with UCO Bank, Delhi High Court branch within the period specified and out of the said deposit sixty percent (60%) was allowed to be released, the balance retained in fixed deposit receipt in the account of first respondent (Sulekha Sharma). It is directed that the balance with up-to-date accrued interest shall also be released to the claimant in terms of the impugned judgment.

R.K. GAUBA
(JUDGE)

MARCH 02, 2016/ssc