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

Date of Decision: 28th April, 2016

\+ **MAC.APP. 1153/2013**

SHRIRAM GENERAL INSURANCE CO LTD

..... Appellant

Through Mr. P Acharya, Adv.

versus

MOHD ASLAM & ORS

..... Respondent

Through Mr. Ashish Dahiya, Adv. for R-4

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

JUDGMENT

R.K.GAUBA, J (ORAL):

1. The insurance company having been fastened with the liability to indemnify the owner of the offending vehicle (the fourth respondent) by the judgment dated 13.05.2013 passed by the motor accident claims tribunal (tribunal) in accident claim case (MACT case No.373/11) instituted by the claimants (first and second respondents) on 28.11.2011 awarding compensation in the sum of Rs.3 lakhs on account of death of their child in motor vehicular accident on 30.07.2011 contends that there is breach of terms and conditions of the policy as there was no fitness certificate held in respect of the offending vehicle. This issue, it is conceded at the hearing, was not even taken as a defence before the tribunal. Instead, the tribunal

noted in para 18 of the impugned judgment that insurance company did not offer any statutory defence.

2. In above view of the matter, the appeal is dismissed. [see judgment dated 04.04.2016 in MAC.APP.No.18/2015 *United India Insurance Co Ltd v. Ramesh Kumar Raman & Ors*.]

3. Statutory amount, if deposited, shall be refunded.

R.K. GAUBA
(JUDGE)

APRIL 28, 2016
VLD