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

**Date of Decision: 4<sup>th</sup> April, 2016**

+ **MAC.APP. 18/2015 & CM Nos.355/2015, 9519/2015**

UNITED INDIA INSURANCE CO. LTD. .... Appellant

Through: Mr. Pankaj Seth, Adv.

versus

RAMESH KUMAR RAMAN& ORS ..... Respondents

Through: Mr. Ataur Rahman, Adv. for R-2 & 3.

**CORAM:**

**HON'BLE MR. JUSTICE R.K.GAUBA**

**JUDGMENT**

**R.K.GAUBA, J (ORAL):**

1. On the claim petition (27/2014) brought by the first respondent (claimant) on 24.02.2012, alongside detailed accident report (DAR) submitted by the police, the tribunal, by judgment dated 06.09.2014, awarded compensation in the sum of ₹ 1,06,825/- with interest in his favour for injuries suffered in a motor vehicular accident that had occurred at 12.45 a.m. on 30.11.2011 involving bus bearing No. DL IPC 7254 of the second respondent, it being driven at the relevant point of time by the third respondent and having been insured against third party risk with the appellant insurance company (insurer). While contesting, the insurer had submitted that there was breach of terms and conditions of the insurance policy as fitness certificate was not shown. This contention was rejected by the tribunal and it was called upon to indemnify.

2. Though a number of issues were raised in the appeal, it is pressed only to seek recovery rights on the basis of above-mentioned plea. On consideration, this Court finds the plea to be unmerited. The non-possession of the document referred to above cannot be treated as a fundamental breach of terms and conditions of the policy or to have contributed to the cause for accident [*National Insurance Company V. Swaran Singh* (2004) 3 SCC 297]. The appeal is, thus, liable to be dismissed.

3. The amount of compensation deposited by the insurer in terms of order dated 09.01.2015, held in fixed deposit, shall now be released to the claimant with accumulated interest. The Registrar General shall take necessary steps.

4. Statutory deposit, if made, shall be refunded.

5. The appeal with applications stands disposed of.

**R.K. GAUBA**  
**(JUDGE)**

**APRIL 04, 2016**

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