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

Decided on: 16th August, 2017

\+ MAC APPEAL No. 15/2015

TATA AIG GENERAL INSURANCE CO LTD ..... Appellant
Through: Mr. Sameer Nandwani, Adv.

versus

SANDEEP SINGH & ORS ..... Respondents
Through: Mr. Sanjay Kr. Roy, Adv. for R-1.

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

JUDGMENT (ORAL)

1. The insurance company on which the liability has been fastened in accident claim case (suit no. 528/2012) of the first respondent, by judgment dated 20.09.2014, seeks to avoid such responsibility, referring in this context to provision contained in Sections 53 and 61 of the Employees State Insurance Act, 1948, a plea which was rejected by the tribunal.

2. Having heard the learned counsel for the appellant and having gone through the tribunal’s record, this Court finds no merit in the appeal. There is nothing shown on record from which it could be inferred that the claim for compensation in the case in which the impugned judgment was passed, was in respect of an *“employment injury”* within the meaning of expression defined in Employees State

Insurance Act, 1948. The amount, if any received from Employees State Insurance Corporation, is a pecuniary advantage which has no co-relation with the liability of the appellant in terms of Section 166 of Motor Vehicles Act, 1988.

3. The view taken by the tribunal is in accord with the rulings of the Supreme Court in *Helen C. Rebello and Ors., Vs. Maharashtra State Road Transport Corporation and Anr., 1999 (1) SCC 90* and *Vimal Kanwar and Ors. Vs. Kishore Dan and Ors., (2013) 7 SCC 476* and of this Court in *DTC vs. Harish Ahuja & Anr., MAC Appeal No. 377/2005* decided on 02.08.2017.

4. The appeal is dismissed.

5. The amount deposited by the insurance company shall be released to the claimant (first respondent).

6. The statutory amount shall be refunded.

R.K.GAUBA, J.

AUGUST 16, 2017
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