$~R-288

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

Decided on: 09th October, 2017

\+ MAC.APP. 60/2011

ORIENTAL INSURANCE CO. LTD. ..... Appellant

Through: Mr. Pradeep Gaur, Advocate

versus

VARUN DUTT & ORS. ..... Respondents

Through

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

JUDGMENT (ORAL)

1. The appellant / insurance company (insurer) was a party respondent before the Motor Accident Claims Tribunal (Tribunal) in accident claim case (suit no.1197/2004) instituted by the first respondent (claimant) leading to judgment dated 07.09.2010 whereby compensation was awarded in favour of the said claimant for injuries suffered by him in a motor vehicular accident that had occurred on 24.12.1998 on account of the negligent driving by the second respondent (driver) of car bearing no.DL-6CE-7806 (car) registered in the name of the third respondent (registered owner), the liability having been fastened against the insurer to pay.

2. During the inquiry, the insurer had taken the plea that it was not liable since the cheque whereby the premium was tendered had been

dishonoured. The evidence to such effect was led. The Tribunal, however, declined to grant any relief to the insurer for the reason the evidence also showed that the original record of the insurance policy had been destroyed and no evidence had been shown of any appropriate steps in terms of the law, having been taken for cancellation of the insurance policy.

3. By the appeal at hand, the insurer reiterates its plea for exoneration.

4. Given the fact that the original insurance policy has admittedly been destroyed prematurely for which there is no just or sufficient explanation offered, there being no evidence led to show any appropriate steps were taken for cancellation of the policy in terms of the law, the plea cannot be accepted. The appeal is found devoid of substance and is dismissed.

5. By order dated 20.01.2011, the insurance company had been directed to deposit the entire awarded amount with up-to-date interest and, by order dated 07.04.2011, fifty percent (50%) of the said deposited amount was allowed to be released to the claimant. The Registry shall release the balance lying in deposit to the claimant with accrued interest.

6. The statutory amount shall be refunded to the insurance company.

R.K.GAUBA, J.

OCTOBER 09, 2017
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