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

Decided on: 6th September, 2017

+ MAC.APP. 43/2010 and CM APPL.1613/2010

NEW INDIA ASSURANCE COMPANY LIMITED

.....Appellant

Through: Mr. D.K. Sharma, Advocate

versus

REEMA DEVI & ORS

..... Respondents

Through: Mr. S.N. Parashar, Advocate

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. Punjab Singh had borrowed the motorcycle bearing registration No.HR-10-H-4181 from his brother Satish (fifth respondent), who was the registered owner of the said vehicle, at whose instance the appellant insurance company had issued the insurance policy. On 03.11.2005 at about 8:30 p.m., while coming from Alipur he lost control over the vehicle and as a consequence, he struck against a branch of tree lying on road resulting in he falling down and suffered injuries that proved fatal. His wife and three members of the family dependent on him, first to fourth respondents (collectively, the claimants), brought accident claim case (Petition No.979/2008) seeking compensation under Section 163-A of the Motor Vehicles Act, 1988. The tribunal returned a finding that the deceased could not

be covered under the third party risk and yet it granted Rs.1,00,000/- (Rupees One Lakh Only) as compensation under the personal accident insurance cover, which concededly was also a liability undertaken by the afore mentioned policy issued by the appellant insurance company.

2. The insurance company questions the above approach of the tribunal contending that such award could not have been made on a petition under Section 163-A of the Motor Vehicles Act, 1988.

3. The plea is wholly devoid of substance. The tribunal has only granted the benefit of personal accident cover which cannot be denied.

4. The appeal is dismissed.

5. The stay against execution granted by order dated 27.01.2010 is vacated. The insurance company is directed to satisfy the award by requisite deposit including upto-date interest with the tribunal within thirty days.

6. The statutory amount shall be refunded to the appellant insurance company, after the proof is shown of the award having been satisfied.

7. The appeal along with accompanying application stands disposed of in above terms.

8. *Dasti.*

R.K.GAUBA, J.

SEPTEMBER 06, 2017

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