$~R-298

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

Decided on: 09th October, 2017

\+ MAC APPEAL 108/2011

IFFCO TOKIO GENERAL INSURANCE CO. LTD. .... Appellant

Through: Mr. Pankaj Gupta for Ms. Suman Bagga, Advocate

versus

SHISHUPAL & ORS. ..... Respondents

Through: None

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

JUDGMENT (ORAL)

1. The Motor Accident Claims Tribunal (Tribunal) by its judgment dated 06.12.2010 on accident claim case (MACT 841/2010) instituted on 22.09.2007 by the first and second respondents (collectively, the claimants) awarded compensation on account of the death of Ranjeet in a motor vehicular accident that took place on 13.09.2007 involving use of three-wheeler scooter bearing registration no.DL-1RF-5320 (TSR), fastening the liability on the appellant / insurance company (insurer). It may be mentioned here that the claim petition was filed under Section 163-A of the Motor Vehicles Act, 1988 based on the averments that the deceased was an auto mechanic who had taken out the TSR from the workshop where it had been brought for repairs and

in the course of such driving, he lost control over the vehicle resulting in the accident, which proved fatal for him.

2. The insurance company questions the direction by the tribunal for it to indemnify the registered owner by paying the compensation on the ground it is not a case of third party claim.

3. The contention of the insurance company must be accepted in view of the decisions of the Supreme Courts in *New India Assurance Company Ltd. vs. Sadanand Mukhi & Ors.*, *(2009) 2 SCC 417* and *Ningamma & Anr. vs. United India Insurance Company Ltd.*, *(2009) 13 SCC 710* and a number of similarly placed cases decided by this court including the judgment dated 09.05.2016 in *MACA 550/2013, New India Assurance Company Ltd. Vs. Neeraj and Ors*. Since the deceased cannot be treated as a third party in relation to the insurance company he having stepped into the shoes of the owner, the impugned judgment in so far as it bound the insurance company to pay compensation cannot be sustained and is set aside accordingly.

4. The amount of compensation deposited by the insurance company in terms of interim order dated 08.02.2011, alongwith statutory deposit, shall be refunded.

5. The appeal is disposed of in above terms.

R.K.GAUBA, J.

OCTOBER 09, 2017
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