$~5 & 6 *(common order)*

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

Decided on: 16th August, 2017

\+ MAC.APP. 154/2013

IFFCO TOKIO GENERAL INSURANCE CO LTD

..... Appellant

Through: Mr. Pankaj Seth, Advocate

versus

DARSHNA AND ORS ..... Respondents

Through: Nemo.

\+ MAC.APP. 157/2013

IFFCO TOKIO GENERAL INSURANCE CO LTD

..... Appellant

Through: Mr. Pankaj Seth, Advocate

versus

PARVATI AND ORS ..... Respondents

Through: Nemo.

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

JUDGMENT (ORAL)

1. In a motor vehicular accident that occurred on 18.04.2009 involving negligent driving of Tavera car bearing registration No.HR-63-AT-7536 (the car), two persons came to be injured, they being Darshna and Parvati, the first respondents in these appeals. Two

accident claim cases (MACT No.555/2010 and 384/2009) were instituted, the appellant insurance company (insurer) being impleaded as second respondent in each case, the other respondents being Dalip Kuamr Chawla, the driver and owner of the car, he now being second respondent in these appeals.

2. By similar judgments dated 13.09.2012, compensation was awarded in each case by the Motor Accident Claims Tribunal (the tribunal), liability having been fastened on the insurer, its plea for exoneration on the ground the driver did not hold a valid and effective driving licence having been rejected.

3. These appeals are pressed by the insurer on the sole ground that it should have been exonerated since the driver was holding the driving licence for Light Motor Vehicle (LMV) which was not good for a transport vehicle. The plea only needs to be noted and rejected. The rule of main purpose and the concept of fundamental breach applies. [see: *National Insurance Company vs. Swaran Singh* (2004) 3 SCC 297]. The view taken by the tribunal is in accord with the view taken by this court by order dated 17.02.206 in MAC Appeal no. 32/2006 titled *The New India Assurance Co. Ltd. vs. Arvinder Kaur & Ors.*

4. The appeals are, thus, dismissed.

5. By interim order dated 15.02.2013, the insurance company had been directed to deposit the awarded amount with upto date interest accrued thereon with UCO Bank, Delhi High Court Branch, New

Delhi within the period specified and from out of such deposit seventy per cent (70%) was allowed to be released to the claimants. The balance shall also now be released to the claimants.

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

R.K.GAUBA, J.

AUGUST 16, 2017
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