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

Decided on: 14th November, 2017

+ **MAC APPEAL No. 340/2012**

**HDFC ERGO GENERAL INSURANCE CO.
LTD.**

..... Appellant

Through: Ms. Neerja Sachdeva, Adv.

versus

ARJUN KUMAR MUKHIYA & ORS.

..... Respondents

Through: Ms. Padmini Kumari, Adv. for
R-1.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The liability to pay the compensation to the first respondent (claimant) for injuries suffered in the motor vehicular accident that occurred on 05.07.2009 was fastened by the tribunal on the appellant (insurer) by judgment dated 06.09.2011 in claim case (MAC Petition no. 179/10) instituted on 07.09.2010 on the basis of finding that the cause of action arose due to accident involving negligent driving of tanker bearing registration no. HR 55A 6926, which had been insured against third party risk by its owner with the appellant.

2. The insurance company presses the appeal on the contentions that the insurance policy had been cancelled on 19th March, 2009 and that the vehicle was not covered by a valid permit.

3. Concededly, both the above mentioned contentions had not been pressed before the tribunal nor were supported by any evidence led by the insurer. The insurer had come up with application (CM No. 5856/2012) seeking opportunity to adduce additional evidence. The said application was dismissed by order dated 23.11.2015. With such result of the endeavour to bring home the contentions, the appeal is rendered devoid of substance. It is dismissed.

4. By order dated 30.03.2012, the insurance company had been directed to deposit the awarded amount with upto date interest with the Registrar General of this Court. By order dated 06.07.2012, out of such deposit, 50% was permitted to be released to the claimant. The registry shall now release the balance to the claimant in terms of the impugned judgment.

5. The appeal is disposed of in above terms.

6. The statutory amount shall be refunded.

R.K.GAUBA, J.

NOVEMBER 14, 2017

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