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

Decided on: 14th July, 2017

+ MAC.APP. 203/2009

M/S NATIONAL INSURANCE CO. LTD Appellant
Through: Ms. Sonia Sharma, Advocate

versus

SAMPATI DEVI & ORS Respondents
Through: Mr. Anshuman Bal, Advocate
for R-1 to R-6.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The appellant had issued insurance policy against third party risk in respect of three wheeler scooter bearing registration No.DL-IRE-5153 (TSR) covering the relevant period and, by the impugned award on the claim petition (MACT New No.747/08/2005) of the first to fifth respondents (the claimants), has been burdened with the liability to pay compensation on account of death of Laxman Singh due to involvement of the said TSR being driven on public road, the claim having been made under Section 163-A of the Motor Vehicles Act, 1988.

2. The insurance company presses the appeal only on the ground that there was negligence on the part of the driver of the other vehicle involved in the collision, it being truck bearing registration No.HR-38C-8329. Even if such plea were to be accepted, for purposes of the

claim of the private respondents herein, it would have no effect, in as much as from their perspective it would be a case of composite negligence, the deceased Laxman Singh being passenger in the TSR. Even further, it has to be remembered that the claim was pressed and granted by the Motor Accident Claims Tribunal under Section 163-A of the Motor Vehicles Act, 1988 for which purposes the issue of negligence is inconsequential.

3. Thus, the appeal is devoid of substance and is dismissed.
4. The statutory amount shall be refunded to the appellant insurance company
5. The appeal and the pending application are disposed of in above terms.

R.K.GAUBA, J

JULY 14, 2017

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