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

Decided on: 20th July, 2017

+ **MAC APPEAL 327/2009**

THE NEW INDIA ASSURANCE CO. LTD. Appellant

Through: Mr. Pankaj Seth, Advocate

versus

NAVEEN MONGA & ORS. Respondents

Through: None

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. By the impugned judgment dated 23.12.2008, on accident claim petition (suit no.385/2008) of the first respondent, the Motor Accident Claims Tribunal (Tribunal) awarded compensation in his favour returning a finding that the vehicle insured by the appellant / insurance company had been negligently driven, it having given rise to the cause of action but accepting the defence of breach of the terms and conditions of the policy granted recovery rights.

2. The appeal filed is pressed on sole contention that instead of being asked to pay and recover, the insurance company should have been exonerated. This contention must be noted and rejected. [See *National Insurance Company V. Swaran Singh* (2004) 3 SCC 297].

3. The appeal is, therefore, dismissed.

4. The Insurance company had been directed by earlier order to deposit the entire awarded amount. Some amount therefrom was released. The balance shall now be released.

5. The statutory amount shall be refunded.

JULY 20, 2017

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R.K.GAUBA, J.

