$~R-573

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

Decided on: 27th November, 2017

\+ MAC APPEAL 908/2012

UNIVERSAL SOMPO GENERAL INSURANCE COMPANY LIMITED. ..... Appellant

Through: None

versus

SUSHILA DEVI & ORS. ..... Respondents

Through: Mr. D.K. Sharma, Adv. for R-5

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

JUDGMENT (ORAL)

1. By judgment dated 05.06.2012, the Motor Accident Claims Tribunal (Tribunal) decided accident claim case (suit no.328/2010) which was instituted by first to fourth respondents (collectively, the claimants) on 16.11.2010, seeking compensation on account of death of Vidya Prasad, in a motor vehicular accident that had occurred on 18.09.2010, due to negligent driving of a motor vehicle described as Maruti Van bearing registration no.DL-3C-AD-3358 (Van). The tribunal returned a finding on the basis of evidence led during inquiry that the accident had indeed been caused due to negligent driving of the van by the fifth respondent (Hansraj) who is also the registered owner of the said vehicle. During the inquiry, reliance had been placed on the certificate-cum-policy of insurance admittedly issued by

the appellant (insurer) in respect of the vehicle covering third party risk for the relevant period. The insurer, however, took the plea that the said insurance policy had been obtained by the fifth respondent by committing fraud and mis-representation of facts with regard to the insurance policy for the previous year. This plea was rejected by the tribunal and the liability to pay the compensation determined by the impugned judgment placed at the door of the insurer.

2. The appeal was filed by the insurer questioning the above decision of the tribunal.

3. The appeal was put in the list of 'Regulars', to come up on its own term as per order dated 11.02.2016. When it is called out for hearing, on its turn, there is no appearance on behalf of the appellant.

4. The learned counsel for the fifth respondent has been heard and record perused.

5. The very fact that the insurance company had issued the certificate-cum-policy of insurance for the period in question and there were no steps taken for cancellation of such policy justifies the view taken by the tribunal. The appeal is, therefore, found to be devoid of substance and is dismissed.

6. By order dated 24.08.2012, the insurer had been directed to deposit the entire awarded amount with up-to-date interest with the UCO Bank, Delhi High Court branch. By a subsequent order dated 12.10.2012, fifty percent (50%) of the awarded amount was permitted to be released to the claimants. The Registry shall now release the balance with accrued interest to the claimants in terms of the impugned judgment.

7. Since the insurer did not appear at the final hearing to assist, statutory deposit is forfeited as costs to be made over to Delhi High Court Legal Services Committee.

8. The appeal is disposed of in above terms.

R.K.GAUBA, J.

NOVEMBER 27, 2017

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