$~R-248

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

Decided on: 21st September, 2017

\+ MAC APPEAL No. 652/2010

UNITED INDIA INSURANCE CO. LTD. ..... Appellant
Through: Mr. Pankaj Seth, Adv.

versus

NIRDESH & ORS. ..... Respondents
Through: None.

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

<u>JUDGMENT (ORAL)</u>

1. The motor accident claims tribunal while granting compensation by judgment dated 24.07.2010 in favour of first to sixth respondents (collectively, the claimants) on their accident claim case (case no. 660/2003) on account of death of Raj Kumar, fastened the liability on the appellant insurance company, it concededly being the insurer against third party risk in respect of the offending vehicle, rejecting its plea for exoneration on the ground that there was breach of terms and conditions of the insurance policy in view of the fact that licence presented by the driver (seventh respondent), upon verification, was found to be fake. It is, however, noted that the tribunal followed the ruling of the Supreme Court in *United India Insurance Company vs. Lehru AIR 2003 SC 1292* to reject the said

contention taking note of the evidence of the owner of the offending vehicle about he having exercised due diligence.

2. In this view of the matter, the appeal is dismissed.

3. By order dated 07.10.2010, the insurance company had been directed to deposit the entire awarded amount and from out of such deposit fifty percent (50%) was allowed to be released to the claimants. The balance lying in deposit shall also now be released to the claimants.

4. The statutory amount shall be refunded.

R.K.GAUBA, J.

SEPTEMBER 21, 2017
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