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

% **<u>Date of Decision: 9th January, 2017</u>**

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\+ MAC. APP.994/2013

HDFC ERGO GENERAL INSURANCE CO. LTD. ..... Appelant
Through: Mr. Shrey Mehta, Advocate.

versus

MALKIYAT SINGHT & ORS ..... Respondents
Through:

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\+ MAC. APP.998/2013

HDFC ERGO GENERAL INSURANCE CO. LTD. ..... Appelant
Through: Mr. Shrey Mehta, Advocate.

versus

SATYA NARAIN & ANR. ..... Respondents
Through:

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\+ MAC. APP.1024/2013

HDFC ERGO GENERAL INSURANCE CO. LTD. ..... Appelant
Through: Mr. Shrey Mehta, Advocate.

versus

AJEET SINGH & ANR. ..... Respondents
Through: Mr.Rajat Malhotra, Advocate for respondent no.1.

CORAM:
HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

1. The appellant has challenged the award of the Claims Tribunal whereby compensation has been awarded to the three injured persons hereinafter referred to as claimants.

2. On 24th November, 2010, the insured vehicle bearing No.UP-13Q-9451 was stuck in a pit whereupon the claimants were asked to push the insured vehicle. The claimants pushed the insured vehicle out of the pit. However, the driver of the insured vehicle turned the vehicle towards the high tension wire of electricity whereupon the three claimants who were in touch with the vehicle suffered grievous injuries due to electrocution. The Claims Tribunal awarded compensation of Rs.6,45,500/- to the claimant in MAC.APP.994/2013, Rs.9,52,950/- to the claimant in MAC.APP.1024/2013 and Rs.12,98,800 to the claimant in MAC.APP.998/2013.

3. The appellant contested the claim petitions on the ground that the driving licence of the driver of the insured vehicle was fake. The appellant examined the witnesses R2W1, R2W2 and R2W3 to prove that the driving licence was fake. The Claims Tribunal accepted the defence of the appellant and granted recovery rights to the appellant to recover the award amount from respondent no.2.

4. Learned counsel for the appellant submits that the claimants suffered injuries due to the electrocution and not by the insured

vehicle and therefore, the appellant is not liable to pay any compensation. It is further submitted that there was no negligence on the part of the driver of the offending vehicle. Reliance is placed on ***A. Sridhar v. United India Insurance Co. Ltd.,*** III (2011) ACC 930 (SC) in which it was held that the negligence of the offending vehicle is necessary to award the compensation.

5. This Court is of the view that the accident in question occurred due to the negligence of the driver of the insured vehicle who drove the vehicle towards the high tension wire after came out from the pit and the accident involves the offending vehicle. There is no merit in the contentions urged by learned counsel for the appellant. The appellant has been sufficiently protected by the grant of recovery rights to recover the award amount from the owner/driver of the offending vehicle.

6. There is no merit in the appeals which are hereby dismissed.

JANUARY09, 2017 **J.R. MIDHA, J.**

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