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

Decided on: 06th November, 2017

+ **MAC APPEAL 976/2011**

ANITA & ORS.

..... Appellants

Through: Mr. O.P. Mannie, Advocate

versus

GURDEV VERMA & ORS.

..... Respondents

Through: Mr. R.K. Tripathi, Adv. for R-2

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The accident claim case (MACP 303/2009) instituted on 01.12.2009 by the appellants seeking compensation under Section 163A of the Motor Vehicles Act, 1988, on account of death of Brahm Prakash @ Pappu in a motor vehicular accident that is stated to have occurred on 30.08.2008 was dismissed by the Motor Accident Claims Tribunal (Tribunal) by judgment dated 11.07.2011, *inter alia*, with reference to the rulings of the Supreme Court in *Oriental Insurance Company Ltd. Vs. Meena Variyal*, 2007 (5) SCC 428 and *Ningamma & Anr. vs. United India Insurance Company Ltd.*, (2009) 13 SCC 710.

2. The learned counsel for the appellant submits that the reference to *Meena Variyal* (supra) was improper since the issue of negligence would not arise in a case brought under structured formula for compensation based on the principle of no fault liability. He also

submits that reference to *Ningamma* (supra) by the tribunal was incorrect on the erroneous assumption that this claim has been preferred against the insurer of the vehicle driven by the deceased.

3. It is submitted on instructions by the counsel for the appellants that he may be allowed to withdraw the present appeal and instead move the tribunal by review petition.

4. In the given facts and circumstances, the request is granted. The appeal is dismissed as withdrawn with liberty as prayed granted.

NOVEMBER 06, 2017

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R.K.GAUBA, J.



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