$~R-431

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

Decided on: 07th November, 2017

\+ MAC APPEAL 1116/2011 and CM 22409/2011

THE NEW INDIA ASSURANCE COMPANY LTD. ..... Appellant

Through: Mr. Pankaj Seth, Advocate

versus

SUNITA & ORS. ..... Respondents

Through: None

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

JUDGMENT (ORAL)

1. The first to third respondents (collectively, the claimants) had instituted accident claim case (MACT 1027/07) on 05.12.2007 seeking compensation on account of the death of Rajbir Singh alleging that the said event had occurred in a motor vehicular accident that took place on 18.11.2006 due to the negligent driving of Tata truck bearing registration no.HR-63C-4355 by the fourth respondent, the said vehicle concededly being registered in the name of the fifth respondent and insured at his instance with the appellant / insurer for the period in question.

2. The inquiry resulted in the judgment dated 21.05.2011 being passed, holding the said truck driver negligent, this being the cause for the fatal accident.

3. The Motor Accident Claims Tribunal (Tribunal) awarded compensation in favour of the claimants fastening the liability on the insurer to pay.

4. The insurer, by the appeal, at hand questions the correctness of the finding on the issue of involvement of the truck and negligence on the part of its driver submitting that the particulars of the vehicle were not mentioned in the first information report that had been registered by the police and that the eye-witness was discovered much later.

5. This court has gone through the evidence on record and finds that the claimants had relied on the evidence of Mahender Singh (PW-3), an eye-witness, whose presence is supported by the material on the basis of which the driver was prosecuted in the criminal court. The evidence of PW-3 has remained unchallenged, there being no effort on the part of the contesting parties to adduce the evidence of the truck driver.

6. In these circumstances, the appeal is found devoid of substance and is dismissed. The pending application also stands dismissed.

7. By order dated 13.12.2011, the insurance company had been directed to deposit the entire awarded amount with interest. By subsequent order dated 04.07.2013, Rs.15,00,000/- (Rupees Fifteen lakh only) was permitted to be released to the claimants. The balance amount lying in deposit shall also now be released to the claimants in terms of the judgment of the tribunal.

8. The statutory amount shall be refunded to the insurer.

R.K.GAUBA, J.

NOVEMBER 07, 2017/yg