

\$~R-132 & 134

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

Decided on: 22nd August, 2017

+ **MAC APPEAL 550/2009**

**CHOLAMANDALAM M.S. GENERAL INSURANCE
CO. LTD.**

..... Appellant

Through: Ms. Suman Bagga and Mr.
Pankaj Gupta, Advocates

versus

ASHOK KUMAR @ KALA AND ORS. Respondents

Through: Ms. Pankaj Kumari for Mr.
S.N. Parashar, Adv. for R-1

+ **MAC APPEAL 552/2009**

**CHOLAMANDALAM M.S. GENERAL INSURANCE
CO. LTD.**

..... Appellant

Through: Ms. Suman Bagga and Mr.
Pankaj Gupta, Advocates

versus

MASTER NITIN AND ANR. Respondents

Through: Ms. Pankaj Kumari for Mr. S.N.
Parashar, Adv. for R-1

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. On the accident claim petitions (MAC petition nos.155/08 and 86/08) respectively of the first respondent in these two appeals, arising out of the common judgment dated 09.09.2009, while accepting the claim for compensation on the principle of fault liability and granting

awards in their respective favour, the appellant / insurance company was directed to pay the said amounts, though its plea of breach of the terms and conditions of the insurance policy having been accepted for the reason that there was no driving licence, recovery rights were granted to it against the driver and owner respectively of the offending vehicle.

2. These appeals are pressed by the insurer to submit that instead of being called upon to pay to the claimants, it should have been exonerated.

3. This plea only deserves to be noted and rejected. In this benevolent jurisdiction, third party interest cannot be allowed to be defeated. The interests of the insurance company are duly protected by the tribunal.

4. The appeals are, therefore, dismissed.

5. The insurance company had deposited the awarded amounts with interest in terms of the interim orders in these appeals, some part thereof having been released. The balance lying in deposits shall also now be released to the respective claimants to satisfy the awards in their favour. If there is any deficiency, the claimants are at liberty to take out appropriate proceedings before the tribunal.

6. The statutory deposits shall be refunded.

7. Both the appeals are disposed of in above terms.

R.K.GAUBA, J.

AUGUST 22, 2017/yg