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

Decided on: 07th December, 2017

+ **MAC APPEAL 1225/2012 and CM 19981/2012**

**THE NEW INDIA ASSURANCE COMPANY
LTD.**

..... Appellant

Through: Mr. Pankaj Seth, Advocate

versus

MAMTA BHASIN & ORS.

..... Respondents

Through: None

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The liability to pay compensation on account of death of Anoop Bhasin, in a motor vehicular accident that had occurred on 21.08.2007, had been fastened on the appellant (insurer) by judgment dated 03.10.2012, of the Motor Accident Claims Tribunal (Tribunal) on the accident claim case (petition no.1391/2008) of first to sixth respondents (collectively, the claimants), on the basis of finding that the said event had occurred due to negligent driving of a truck bearing registration no.HR-38-BG-5623 which was insured against third party risk with the appellant.

2. The insurer presses the appeal to question the said finding on the issue of negligence.

3. Having heard the learned counsel and having perused the record, this court finds no good reasons to disturb the conclusions reached by the tribunal. It is noted that the tribunal has gone by the principle of *res ipsa loquitur*, taking into account, *inter alia*, the attendant circumstances, as borne out from the criminal case record.

4. The appeal and the pending application are consequently dismissed.

5. By order dated 30.11.2012, the insurance company had been directed to deposit the entire award amount with up-to-date interest and by a subsequent order dated 20.01.2016, from out of such amount, fifty percent (50%) was directed to be released to the claimants. The balance was directed to be kept in fixed deposit receipt. The balance sum with accrued interest shall now be released to the claimants in terms of the impugned judgment.

6. The statutory amount shall be refunded to the insurer after proof is shown of the award having been satisfied.

7. The appeal and the pending application are disposed of in above terms.

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R.K.GAUBA, J.

DECEMBER 07, 2017

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