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

Decided on: 8th September, 2017

\+ MAC APPEAL No. 1185/2013

SMT. SHEELA DEVI & ORS. ..... Appellants
Through: Mr. Nitin Yadav, Advocate

versus

THE ORIENTAL INSURANCE COMPANY LIMITED & ORS. ..... Respondents
Through: Mr. A.K. Soni, Advocate for R-1.

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

JUDGMENT (ORAL)

1. Deceased Kailash Mehto was the driver of motor vehicle, described as Tata 709, bearing registration No.HR-38F-4176, which was admittedly insured against third party risk for the period in question with the first respondent (insurer). The vehicle belonged to the second respondent. Kailash Mehto died as a result of the injuries suffered by him due to accident involving some unknown vehicle. The accident claim case (Suit No.447/11/08) was instituted on 21.04.2008 by his wife and other members of the family dependant on him on their behalf and also for the benefit of the father of the deceased, he being the third respondent in these proceedings, seeking compensation under Section 163-A of the Motor Vehicles Act, 1988.

2. The tribunal dismissed the claim petition holding that such claim could not be maintained against the owner of the vehicle or its insurer since the deceased and those claiming under him could not be treated as third party under the insurance policy which had been taken out.

3. The view taken by the tribunal is in accord with the decisions of the Supreme Court in *New India Assurance Company Ltd. vs. Sadanand Mukhi & Ors*., (2009) 2 SCC 417 and *Ningamma & Anr. vs. United India Insurance Company Ltd.*, (2009) 13 SCC 710 and of this court following the said law in a series of judgments including *Oriental Insurance Company Limited vs. Shakuntala & Anr.,* MAC APP.142/2007, decided on 2nd March, 2016 and MAC Appeal No. 408/2008 *National Insurance Company vs. Sanju & Ors.* decided on 25th August, 2017.

4. The appeal is thus dismissed.

R.K.GAUBA, J.

SEPTEMBER 08, 2017
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