$~R-687

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

Decided on: 11th December, 2017

\+ MAC APPEAL 1268/2012 and CM 20810/2012

ROYAL SUNDARAM ALLIANCE INSURANCE COMPANY LTD. ..... Appellant

Through: Mr. Pankaj Gupta and Ms. Anjali Chawla for Ms. Suman Bagga, Advocate

versus

DARIYAO SINGH & ORS. ..... Respondents

Through: None

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

<u>JUDGMENT (ORAL)</u>

1. On the accident claim case (MACT 73/10/09), instituted on 06.11.2009 by the first respondent (claimant), the Motor Accident Claims Tribunal (Tribunal), by its judgment dated 29.08.2012, awarded compensation in the total sum of Rs.7,90,348/- and fastened the liability on the appellant (insurer) to pay with interest at the rate of 9% p.a. for the injuries suffered by him in a motor vehicular accident that had occurred on 17.08.2009 due to negligent driving of truck bearing registration no.HR-46A-2717 (truck). The tribunal found that the accident had been caused in the area of Katewara Mor, Quatab Garh Road, Delhi due to negligent driving by the second respondent

(driver). The truck was proved to be owned by the third respondent (owner) at whose instance the appellant (insurer) had issued the insurance policy. While contesting, the insurer had taken the plea of breach of terms and conditions of the insurance policy on the ground that there was no valid permit in respect of the truck for the Union Territory of Delhi. It led evidence by examining Puneet Gupta (R3W1), its Regional Head, Legal & TP claims. The tribunal, however, did not give any relief to the insurer and instead fastened the liability to pay upon it.

2. The appeal at hand is pressed only to seek recovery rights.

3. The appeal was put in the list of 'Regulars' as per order dated 22.02.2016. When it is taken up in its own turn, there is no appearance on behalf of the respondents. The counsel for the appellant has been heard and with his assistance the record perused.

4. It is noted that the second and third respondents had not contested the evidence led by the insurer during the inquiry before the Tribunal. The said evidence showed that the vehicle registered in the State of Haryana had entered Delhi without any valid permit. No evidence to the contrary was adduced by the second or third respondents. Same is the position at the stage of appeal.

5. In these circumstances, a case of breach of the terms and conditions of the insurance policy has been duly brought home. The insurance company is granted recovery rights against the second and third respondents. For enforcement of such rights, it has the liberty to take out appropriate execution proceedings before the tribunal.

6. By order dated 17.12.2012, the insurer had been directed to deposit the entire awarded amount with up-to-date interest and from out of such deposit, Rs.1,50,000/- was permitted to be released to the claimant. The entire balance lying in deposit with corresponding interest shall now be released to the claimant in terms of the judgment of the tribunal.

7. The statutory amount shall be refunded to the insurance company.

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

R.K.GAUBA, J.

DECEMBER 11, 2017
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