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

Decided on: 07th July, 2017

+ MAC.APP. 943/2016

HDFC ERGO GENERAL INSURANCE CO LTD Appellant
Through: Mr. A.K. Soni, Advocate
versus

GEETA & ORS Respondents
Through: Mr. P.S. Goindi and Ms. Seema
Singh, Advocates for R-1 to 3

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The only ground taken by the appellant / insurance company to bring a challenge to the award of compensation by judgment dated 02.08.2016 of the Motor Accident Claims Tribunal on the accident claim case instituted by the first to third respondents (claimants) on account of death of Gokul Singh in motor vehicular accident that occurred on 26.12.2010 involving three vehicles including Maruti Wagon R Car bearing Registration no.DL-3CZ-8968, concededly insured against third party risk with the appellant company, is that no formal proof of negligence was adduced, the police investigation indicating that the offending truck driver (other vehicle) could not be traced.

2. The Tribunal's judgment (in para 19) notes as under :-

"19. In the present case, petitioner No.1 appeared as PW-1. She is not an eyewitness to the accident. Though no evidence of any eyewitness has been examined, but it is a case where the circumstances clearly speak of negligence

on part of the driver of offending vehicle. R-1 has admitted in his written statement that his vehicle got stuck between two trucks, one was ahead of his car and one was behind. Circumstances itself clearly establish that it is R-1 who had hit into the truck ahead of him and was in turn got hit from behind by another truck. Respondent no.1, being driver of car, was required to take due care to maintain safe distance from vehicle going ahead of him. However, he had failed to do so. It is a case of contributory negligence of respondent No.1 and the driver of truck which was behind him. Respondent No.1 was, thus, a joint tort feaser with the driver of truck behind him.”

3. The learned counsel for the appellant fairly conceded that the Tribunal in reaching the observations noted above has correctly read the evidence and pleadings. Since there was an admission by the fourth respondent (driver of the car) as to the sequence of events leading to the accident, the facts and circumstances borne out therefrom revealing negligence on his part, there was no need for any further formal evidence to be adduced.
4. The view taken by the Tribunal thus cannot be faulted. The appeal is dismissed.
5. The amount of compensation deposited with the Tribunal shall now be released.
6. The Statutory amount, if deposited, shall be refunded.

R.K.GAUBA, J

JULY 07, 2017

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