$~12 & 23

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

Decided on: 30th October, 2017

\+ MAC.APP. 618/2017 and CM Nos.25495-25496/2017

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

versus

ASHA VERMA & ORS ..... Respondents
Through: Mr. Dwapayan Gupta and Mr. Umesh Kumar, Advocates

\+ MAC.APP. 942/2017 and 38718-38719/2017

ASHA VERMA & ANR ..... Appellants
Through: Mr. Dwapayan Gupta and Mr. Umesh Kumar, Advocates

versus

HDFC ERGO GENRAL INSURANCE COMPANY LTD ..... Respondent
Through: Mr. A.K. Soni, Advocate

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

JUDGMENT (ORAL)

1. On accident claim case (MACT 4754/2016) instituted on 27.07.2016 by the wife and son of Vikas Verma (deceased), they being appellants in MACA 942/2017, the Motor Accident Claims Tribunal (Tribunal), by judgment dated 16.02.2017, granted

compensation in the sum of Rs.69,70,000/- and held HDFC Ergo General Insurance Co. Ltd. (appellant in MACA 618/2017) liable to pay on the basis of finding that Vikas Verma had died in a motor vehicular accident that had occurred on the night of 14th and 15th March, 2016 due to the negligent driving of truck traula being registration no.HR-55F-7635, the insurer having admittedly issued the policy covering third party risk in its respect for the period in question.

2. The insurer, by its appeal, raises the issue of the finding on the question of fault being without basis for the reason that no evidence on the issue of negligence had been adduced also contending that the deceased himself was responsible since he was under heavy influence of alcohol.

3. The claimants by their appeal, on the other hand, seek higher amount of compensation.

4. The counsel for the claimants at the hearing fairly conceded that proper evidence on the issue of negligence should have been adduced. It was submitted that reserving his contention on the issue of computation of compensation, he does not press his appeal for enhancement at this stage and rather agrees to the contention in appeal of the insurance company but would pray for a remit so that proper evidence can be adduced.

5. Thus, MACA 942/2017 is dismissed as not pressed. The other appeal MACA 618/2017 is allowed. The impugned judgment is set aside. The claim case is remitted to the tribunal for further inquiry in accordance with law and further adjudication thereupon. The parties are directed to appear before the tribunal on 29.11.2017. The amount

deposited by the insurance company with the tribunal in terms of order dated 21.07.2017 and the statutory amount shall be refunded.

6. Both the appeals with applications filed therewith stand disposed of in above terms.

R.K.GAUBA, J.

OCTOBER 30, 2017
yg