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

Decided on: 25th September, 2017

\+ MAC.APP. 873/2017 and CM 35372/2017

RELIANCE GENERAL INSURANCE CO LTD ..... Appellant

Through: Ms. Prerna Mehta, Advocate

versus

SHAHISTA BEGUM & ORS ..... Respondents

Through

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

<u>JUDGMENT (ORAL)</u>

1. The insurance company on which the liability to pay the compensation initially has been fastened by the tribunal by its judgment dated 19.08.2017 in the accident claim case (new MACT case no.477567/16) of the first to seventh respondents (collectively, the claimants) is in appeal pressing it only to seek further directions that the amount shall not be released to the claimants till the registered owner of the vehicle (ninth respondent) furnishes a security placing reliance in this context on *National Insurance Company Vs. Challa Upendra Rao, 2004 (8) SCC 517*.

2. It is noted that the offending vehicle on account of the negligent driving of which the fatal accident was caused giving rise to the cause of action in favour of the claimants was insured against third party risk

with the appellant / insurance company. While contesting the claim, the insurance company had pleaded breach of the terms and conditions of the insurance policy by the ninth respondent (insured / owner) on the ground that there was no valid permit. The contention of the insurance company was upheld which is the reason why it was granted recovery rights not only against the registered owner (ninth respondent) but also against the *principal tort feasor i.e.* driver of the offending vehicle (eighth respondent).

3. It cannot be ignored that the proceedings arise out of a benevolent jurisdiction. The insurance company has, in the course of its regular business, undertaken to discharge the liability arising out of the third party risk. If in the given facts and circumstances of the case at hand, the condition of the owner being called upon to furnish security were to be added, it would defeat the very purpose of the legislation. The directions in the case cited at bar were issued in the peculiar facts and circumstances of the said case.

4. Thus, the appeal of the insurance company is dismissed in *limine*. It is at liberty to take out appropriate proceedings before the tribunal to enforce the recovery rights. The pending application also stands disposed of.

5. The statutory deposit shall be refunded to the insurance company.

R.K.GAUBA, J.

SEPTEMBER 25th, 2017

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