

\$~19

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

+ **MAC.APP. 1035/2017**

IFFCO TOKIO GENERAL INSURANCE CO. LTD..... Appellant

Through: Mr. Brijesh Bagga, Advocate

versus

INDIRA & ORS (UNITED INDIA

INSURANCE COMPANY. LTD) Respondents

**Through: Mr. Pankaj Seth, Advocate for United
India Insurance Company Ltd.**

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

ORDER

% 28.11.2017

CM Appln.43226/2017

Allowed, subject to just exceptions.

MAC.APP. 1035/2017 and CM Appln.43225/2017, 43227/2017

1. The appellant has challenged the order dated 24th January, 2017 whereby interim award of Rs.50,000/- has been passed by the Claims Tribunal out of which 50% liability has been put on the appellant. The appellant is the insurer of the car in which three deceased persons were travelling as passengers.

2. Learned counsel for the appellant submits that the insurance policy of the car is an "Act only policy" and it does not cover the risk towards the occupants of the car. It is further submitted that the specific plea was raised by the appellant in para 32 of the written statement but the Claims Tribunal neither considered this objection in the award nor gave any reasons for rejecting the same. It is further submitted that this submission was raised at the time of oral hearing. This Court is of the view that it would be

appropriate for the appellant to file an application for review before the Claims Tribunal.

3. This appeal is disposed of with liberty to the appellant to file an application for review before the Claims Tribunal within ten days. If the application for review is filed within 10 days, the Claims Tribunal shall consider the same on merits. Needless to say that in the event of the appellant being aggrieved with the order that would be passed by the Claims Tribunal in the application for review, the appellant would be at liberty to file the appeal against this order as well as the order that would be passed in the application for review. The pending applications are also disposed of.

4. Copy of this order be sent to the claimants.

5. The statutory deposit be refunded back to the appellant.

6. Copy of this order be given *dasti* to counsel for the appellant under the signature of the Court Master.

J.R. MIDHA, J.

NOVEMBER 28, 2017

dk