$~R-723 to 728

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

Decided on: 11th January, 2018

\+ MAC APPEAL No. 49/2013

UNITED INDIA INSURANCE CO. LTD. ..... Appellant
Through: Mr. Sameer Nandwani with Mr. P. Acharya, Advs.

versus

MANJU KANWAR & ORS. ..... Respondents
Through: Mr. Amit Kr. Pandey, Adv. for claimants.

\+ MAC APPEAL No. 50/2013

UNITED INDIA INSURANCE CO. LTD. ..... Appellant
Through: Mr. Sameer Nandwani with Mr. P. Acharya, Advs.

versus

MANISHA CHAURSHIA & ORS. ..... Respondents
Through: Mr. Amit Kr. Pandey, Adv. for claimants.

\+ MAC APPEAL No. 52/2013

UNITED INDIA INSURANCE CO. LTD. ..... Appellant
Through: Mr. Sameer Nandwani with Mr. P. Acharya, Advs.

versus

VED PRAKASH & ORS. ..... Respondents
Through: Mr. Amit Kr. Pandey, Adv. for claimants.

\+ MAC APPEAL No. 54/2013

UNITED INDIA INSURANCE CO. LTD. ..... Appellant
Through: Mr. Sameer Nandwani with Mr. P. Acharya, Advs.

versus

KISHNU GOSAI & ORS. ..... Respondents
Through: Mr. Amit Kr. Pandey, Adv. for claimants.

\+ MAC APPEAL No. 55/2013

UNITED INDIA INSURANCE CO. LTD. ..... Appellant
Through: Mr. Sameer Nandwani with Mr. P. Acharya, Advs.

versus

JAI LAL PANDIT & ORS. ..... Respondents
Through: Mr. Amit Kr. Pandey, Adv. for claimants.

\+ MAC APPEAL No. 56/2013

UNITED INDIA INSURANCE CO. LTD. ..... Appellant
Through: Mr. Sameer Nandwani with Mr. P. Acharya, Advs.

versus

NAND KISHORE CHAUDHARY & ORS. ..... Respondents
Through: Mr. Amit Kr. Pandey, Adv. for claimants.

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

JUDGMENT (ORAL)

1. These six appeals are directed against a common judgment dated 25.10.2012 of the motor accident claims tribunal on the accident claim cases instituted on account of deaths of Satya Narayan Mehto, Ram Naresh, Vishal @ Vikas, Sanjeev @ Sanjeev Gosai @ Kishnu Gosai and Ranjit Chaudhary and injuries to Jai Lal Pandit, in a motor vehicular accident that had occurred on 28.09.2009 at about 2.40 p.m due to negligent driving of motor vehicle described as Tata 407 bearing registration no. HR 55 H 0095, admittedly insured against third party risk with the appellant (insurer) for the period in question. It may be mentioned here that all the accident claim cases, except the one instituted by the first respondent of MAC Appeal No. 55/2013 for injuries suffered by him, were instituted by the respective dependent family members of the persons who died in the said accident, under Section 163A of Motor Vehicles Act, 1988. The claim on account of injuries, however, was pressed under Section 166 of Motor Vehicles Act, 1988. It appears the insurer of the offending vehicle i.e. the appellant herein resisted the said claim cases denying its liability, raising the defence that it could not be made accountable to indemnify as there was breach of terms and conditions of the insurance policy, there being no valid permit taken out in respect of the offending vehicle and the victims being gratuitous passengers.

2. The tribunal, by the common judgment dated 25.10.2012, upheld the aforesaid defence raised by the insurer and held that there was indeed a breach of terms and conditions of the insurance policy.

It, however, declined to exonerate the insurer and instead called it upon to satisfy the awards granting it recovery rights against the owner of the offending vehicle.

3. These appeals are pressed by the insurer only to contend that instead of being called upon to recover it should have been fully exonerated. In the opinion of this Court, the approach of the tribunal cannot be faulted. The third party interest has to be taken care of. The interests of the insurance company are duly protected by grant of the recovery rights. Therefore, there is no case made out for any interference.

4. These appeals are thus dismissed.

5. By similar orders passed on 21.01.2013 in these appeals, the insurer had been directed to deposit the entire awarded amount with upto date interest and out of such deposit 50% was permitted to be released to the respective claimants in terms of the judgment of the tribunal. The registry shall now take requisite steps to release the balance lying in deposits with accrued interest to the respective claimants in terms of the judgment of the tribunal in each case.

6. The statutory deposits shall be refunded in each case.

R.K.GAUBA, J.

JANUARY 11, 2018
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