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

Date of Decision: September 19, 2018

\+ **MAC.APP. 521/2015**

UNITED INDIA INSURANCE COMPANY LTD ..... Appellant
Through: Mr. Vishnu Mehra and Mr. Garva Dhyani, Advocates

Versus

SHRESTHA & ORS. .....Respondents
Through: Mr. Sanjeev Mehta and Ms. Aruna Mehta, Advocates

\+ **MAC.APP. 522/2015**

UNITED INDIA INSURANCE COMPANY LTD ..... Appellant
Through: Mr. Vishnu Mehra and Mr. Garva Dhyani, Advocates

Versus

KIRAN ARORA & ORS. .....Respondents
Through: Mr. Sanjeev Mehta and Ms. Aruna Mehta, Advocates

\+ **MAC.APP. 529/2015**

UNITED INDIA INSURANCE COMPANY LTD ..... Appellant
Through: Mr. Vishnu Mehra and Mr. Garva Dhyani, Advocates

Versus

MASTER RISHI & ORS. ..... Respondents
Through: Mr. Sanjeev Mehta and Ms. Aruna Mehta, Advocates

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

1. The above captioned three appeals arise out of impugned Award of 13th December, 2014 vide which the Motor Accident Claims Tribunal *(henceforth referred to as 'the Tribunal')* has awarded compensation of ₹11,99,700/-with interest @ 9% p.a. to legal heirs of deceased-*Gulzari Lal,* aged 50 years, Assistant Manager in a private company, who died in a vehicular accident, which took place on 20th January, 2005.

2. In this unfortunate accident, a Tailor-*Shrestha,* aged 43 years was grievously injured and the Tribunal vide impugned Award has granted compensation of ₹1,71,885/- with interest @ 9% p.a. to her, which is under challenge in these appeals. In this accident, a minor child-*Rishi,* aged about ten months was also injured. Compensation of ₹3,91,527/- has been granted by the Tribunal to Injured-*Rishi*.

3. Since these three appeals arise out of one vehicular accident, therefore, with the consent of learned counsel for the parties, these appeals have been heard together and are being decided by this common judgment.

4. The factual background of this case, as noticed in the impugned Award, is as under**:-**

> *"Brief facts of the case of the petitioners are that on 20/01/2005 Sh. Gulzari Lal (deceased in the first petition) alongwith his wife Kiran, sister Shrestha (injured in the second petition) sister-in-law Sunita and grand son of his cousin Master Rishi (injured in third petition) had gone to attend the marriage in a Maruti Car No.DL-6CE-0116 which was being driven by respondent No.1. While they were returning after attending the marriage and at about 1.30 a.m. when they reached at Mangolpuri Ordinance Depot Crossing, then one unknown truck came from the*

opposite direction and hit with each other. Resultantly, the deceased in the first petition died and other injured in second and third petition sustained injuries respectively."

5. To render the impugned Award, the Tribunal has relied upon evidence of Injured-*Shrestha (PW-11)* and that of Claimants/legal heirs of deceased and other evidence on record.

6. The challenge to the impugned Award by learned counsel for appellant-*Insurer* is on the ground that in view of Supreme Court's decision in Civil Appeal No. 1427/2018 *Naveen Kumar Vs. Vijay Kumar and Ors.*, rendered on 6th February, 2018, the registered owner of a vehicle is liable to pay the awarded compensation. It is submitted that the registered owner of the insured car in question is Punjab National Bank and therefore, appellant-*Insurer* has no liability to pay the awarded compensation.

7. On the contrary, it is submitted on behalf of respondents-Claimants and the injured that Supreme Court's decision in *Naveen Kumar (supra)* has no application to the facts of the instant case as in the said decision, there was no valid Insurance Policy and so, in that context, the registered owner of the vehicle was made liable to pay the awarded compensation. Attention of this Court is drawn to Section 146 of *the Motor Vehicles Act, 1988* to submit that whoever is driving a vehicle on the road, must have a valid Insurance Policy. It is submitted that the Insurance Policy was obtained by respondent-*Rajpal* and by virtue of being the insurer of the car in question, the liability is of appellant-*Insurer* to pay the awarded compensation.

8. Upon hearing and on perusal of impugned Award, evidence on

record and the decision cited, I find that Supreme Court's decision in *Naveen Kumar (Supra)* is distinguishable as it was rendered in a case, where the vehicle was uninsured and since the vehicle in the instant case is insured, therefore, it is deemed appropriate to rely upon Supreme Court's earlier decision in *Purnya Kala Devi vs. State of Assam and Another,* (2014) 14 SCC 142 wherein it has been declared that the definition of owner has to be considered in the context of a person, who is in actual possession of the said vehicle.

9. Undisputedly, in the instant case respondent-*Rajpal* was in actual possession of the insured vehicle and he had valid insurance in respect of the vehicle in question, from appellant-*Insurer*. While applying the dictum of *Purnya Kala Devi (supra)* to the facts of the instant case, it is held that the liability to pay the awarded compensation is of appellant-*Insurer*. Such a view is taken as from the reply to the claim petition filed by respondents-*PNB* and *Sheetal Khanna,* it is established that the vehicle in question was sold to respondent-*Rajpal,* who had got it insured from appellant. Pertinently, there is no challenge to the quantum of compensation granted. Therefore, the compensation granted is not being interfered with.

10. In view of the aforesaid, finding no substance in these three appeals, they are accordingly dismissed.

(SUNIL GAUR)
JUDGE

SEPTEMBER 19, 2018
v