(2017) 09 DEL CK 0336

In the Delhi High Court

Case No : MAC. Appeal No. 617 Of 2011, Civil Miscellaneous Application No. 12406 Of 2011

ICICI Lombard General Insurance Co. Ltd APPELLANT

Vs

Haseena Khatoon & Ors RESPONDENT

Date of Decision : 20-09-2017

Acts Referred:

Citation : (2017) 09 DEL CK 0336

Hon'ble Judges : R.K.Gauba, J

Bench : Single Bench

Advocate : Pankaj Gupta, Suman Bagga, Pankhi

Final Decision : Disposed Of

Judgement

R.K.Gauba, J

1. The tribunal while deciding accident claim case (suit no. 472/2009) of first to eighth respondents (collectively, claimants), by judgment dated

08.04.2011, awarded compensation in their favour on account of death of Mohd. Hakim, in a motor vehicular accident that occurred on 01.09.2009

due to negligent driving of truck bearing registration no.HR-38N-3626, fastening the liability on the appellant insurance company (insurer), it admittedly

having issued the insurance cover for third party risk in its respect, but granted it recovery rights against the insured (the registered owner), twelfth

respondent (Jumma Khan) on the basis of finding that the driver (eleventh respondent) (MD . Abid) did not hold a valid driving licence.

2. The appeal though brought raising several contentions, is pressed at the hearing only to submit that the insurance company, in the face of finding to

the above effect about the driving licence, should have been totally exonerated.

3. The plea to above effect cannot be accepted as third party interest cannot be allowed to be defeated. The interest of the insurance company having

been duly protected by grant of recovery rights, the appeal is dismissed.

4. By order dated 12.07.2011, the insurance company had been directed to deposit the entire awarded amount with up-to-date interest which was

directed to be kept by the registry in fixed deposit receipt. By subsequent order dated 06.08.2013, fifty per cent (50%) of the said deposit amount was

allowed to be released to the claimants. The balance lying in deposit shall also now be released to the claimants in terms of impugned award.

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

6. The appeal is disposed of in above terms.

