

(2017) 11 DEL CK 0668

In the Delhi High Court

Case No : MAC. Appeal No. 1116 Of 2011, Civil Miscellaneous No. 22409 Of 2011

New India Assurance Company Ltd

APPELLANT

Vs

Sunita & Ors

RESPONDENT

Date of Decision : 07-11-2017

Acts Referred:

Citation : (2017) 11 DEL CK 0668

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

Bench : Single Bench

Advocate : Pankaj Seth

Final Decision : Dismissed

Judgement

R.K.Gauba, J

1. The first to third respondents (collectively, the claimants) had instituted accident claim case (MACT 1027/07) on 05.12.2007 seeking compensation

on account of the death of Rajbir Singh alleging that the said event had occurred in a motor vehicular accident that took place on 18.11.2006 due to the

negligent driving of Tata truck bearing registration no.HR-63C-4355 by the fourth respondent, the said vehicle concededly being registered in the name

of the fifth respondent and insured at his instance with the appellant / insurer for the period in question.

2. The inquiry resulted in the judgment dated 21.05.2011 being passed, holding the said truck driver negligent, this being the cause for the fatal accident.

3. The Motor Accident Claims Tribunal (Tribunal) awarded compensation in favour of the claimants fastening the liability on the insurer to pay.

4. The insurer, by the appeal, at hand questions the correctness of the finding on

the issue of involvement of the truck and negligence on the part of its driver submitting that the particulars of the vehicle were not mentioned in the first information report that had been registered by the police and that the eye-witness was discovered much later.

5. This court has gone through the evidence on record and finds that the claimants had relied on the evidence of Mahender Singh (PW-3), an eye-witness, whose presence is supported by the material on the basis of which the driver was prosecuted in the criminal court. The evidence of PW-3

has remained unchallenged, there being no effort on the part of the contesting parties to adduce the evidence of the truck driver.

6. In these circumstances, the appeal is found devoid of substance and is dismissed. The pending application also stands dismissed.

7. By order dated 13.12.2011, the insurance company had been directed to deposit the entire awarded amount with interest. By subsequent order

dated 04.07.2013, Rs.15,00,000/- (Rupees Fifteen lakh only) was permitted to be released to the claimants. The balance amount lying in deposit shall

also now be released to the claimants in terms of the judgment of the tribunal.

8. The statutory amount shall be refunded to the insurer.