

(2009) 04 DEL CK 0358
In the Delhi High Court
Case No : FAO No. 189 of 1995

United India Insurance Co. Ltd.	Vs	APPELLANT
Vimla Vyas and Others		RESPONDENT

Date of Decision : 17-04-2009

Acts Referred:

Motor Vehicles Act, 1988 — Section 170

Citation : (2009) 04 DEL CK 0358

Hon'ble Judges : J.R. Midha, J

Bench : Single Bench

Advocate : Pankaj Seth, for the Appellant; None, for the Respondent

Final Decision : Dismissed

Judgement

J.R. Midha, J.—The appellant has challenged the award of the learned Tribunal whereby compensation of Rs. 1,15,000/- has been awarded to the claimants. The challenge to the impugned award is on the quantum of compensation. However, learned counsel for the appellant submits that there is no permission u/s 170 of the Motor Vehicles Act, 1988.

2. In the absence of permission u/s 170 of the Motor Vehicles Act, 1988, the present appeal is not maintainable.

3. Reference in this regard be made to the judgments by the Apex Court in the cases of National Insurance Co. Ltd., Chandigarh Vs. Nicolletta Rohtagi and Others, and Shankarayya and Another Vs. United India Insurance Co. Ltd. and Another, where it has been held that in the absence of defence as envisaged u/s 170 of the Motor Vehicles Act being taken over by the insurance company, the appeal filed by the insurance company is not maintainable.

4. In view of the above stated legal position, the appeal filed by the insurance company is not maintainable.

5. The appeal is, therefore, dismissed.

6. No costs.