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

+ **MAC.APP. 54/2024**

THE UNITED INDIA INSURANCE Appellant

Through: **Mr. Rajiv Sabharwal, Adv.**

versus

GEETA DEVI & ORS. Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

ORDER

% **23.01.2024**

1. This hearing is being conducted through hybrid mode.

CM APPL. 4094/2024 (Ex.)

2. Allowed, subject to all just exceptions.

3. The application stands disposed of.

CM APPL. 4092/2024 (Delay of 129 days in filing the present appeal)

4. This application has been moved on behalf of the petitioner seeking condonation of delay of 129 days in filing the present appeal.

5. For the reasons stated in the application, the delay of 129 days in filing the present appeal is condoned.

6. The application stands disposed of.

MAC.APP. 54/2024 and CM APPL. 4093/2024 (Stay)

7. The appellant/Insurance Company is assailing the impugned judgment-cum-award dated 03.06.2023 passed by learned Presiding Officer, MACT-01, South-West District, Dwarka Courts, New Delhi,



whereby the claim petition of respondent Nos. 1 to 6 seeking compensation for the death of the driver namely, Mahender Tanti @ Mahender Das, has been allowed and the liability to pay compensation has been fastened upon the appellant/Insurance Company.

8. Learned counsel for the appellant/Insurance Company has vehemently urged that the offending vehicle in the instant matter was a JCB, therefore falling in the category of a Non-Transport Vehicle and it is the case of the appellant/Insurance Company that the driver was not duly authorized to drive any 'commercial vehicles' as he did not possess a valid driver's licence for this purpose since the driver possessed a driving license which was valid only for driving motorcycle with gear and LMV (Non Transport). Further, it has been urged that the JCB would fall under the category of a heavy motor vehicle since the unladen weight was more than 25,000 Kg.

9. On a perusal of the impugned judgment, I find that the learned Trial Court has dealt with this issue in some detail in paragraph (20) and has relied upon a decision of the Karnataka High Court in **Reliance General Insurance Company Limited v. S. Ramya and Others**. Miscellaneous First Appeal 6789/2010 decided on 09.11.2020.

10. At this stage, the pleas canvassed by the learned counsel for the appellant/Insurance Company prima facie appear to be bereft of any merits.

11. However, let notice of the present appeal be issued to respondents No. 7 and 8 i.e. the driver and registered owner of the offending vehicle of the JCB respectively, by all permissible modes including *via* approved courier as well, subject to the appellant/Insurance Company depositing the entire awarded amount of



compensation with the learned MACT within four weeks from today, along with due interest. The amount of compensation be released forthwith to the claimants, on such deposit of the same.

12. Digitized Lower Court Record also be requisitioned before the next date of hearing.

13. Re-notify on 15.07.2024.

DHARMESH SHARMA, J.

JANUARY 23, 2024

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