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

\+ MAC.APP. 49/2024

ICICI LOMBARD GENERAL INSURANCE CO.LTD. ..... Appellant

Through: Mr. Vishnu Mehra, Adv.

versus

SMT. HARJEET KAUR & ORS. ..... Respondents

Through:

CORAM:
HON'BLE MR. JUSTICE DHARMESH SHARMA

O R D E R

% **19.01.2024**

CM APPL. 3349/2024 (Ex.)

1. Allowed, subject to all just exceptions.

2. The application stands disposed of.

CM APPL. 3352/2024 (Delay of 10 days in re-filing the present appeal)

3. This application is moved on behalf of the appellant/Insurance Company seeking condonation of delay of 10 days in re-filing the present appeal.

4. For the reasons stated in the application, the delay of 10 days in re-filing the present appeal is condoned

5. The application stands disposed of.

CM APPL. 3348/2024 (Delay of 29 days in filing the present appeal)

6. This application is moved on behalf of the appellant/Insurance Company seeking condonation of delay of 29 days in filing the

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present appeal.

7. For the reasons stated in the application, the delay of 29 days in filing the present appeal is condoned

8. The application stands disposed of.

CM APPL. 3350/2024 (Seeking permission to deposit statutory amount)

9. The statutory amount toward the appeal be deposited and the present application stands disposed of accordingly.

MAC.APP. 49/2024 and CM APPL. 3347/2024 (stay) and CM APPL. 3351/2024 (seeking permission to file lengthy synopsis and list of dates)

10. The appellant/Insurance Company is assailing the impugned judgement-cum-award dated 31.07.2023 passed by the learned Presiding Officer, MACT-02, Central, Tis Hazari Courts, Delhi, primarily on the ground that the offending vehicle was not covered by the insurance policy.

11. Learned counsel for the appellant/Insurance Company has alluded to the insurance policy which is described as 'Contractors Plant and Machinery Insurance Policy' (CPMIP) and it is pointed out that the said policy covered insurance not only of plant and machinery of respondent No.3/registered owner (insured), but also its JCB for which liability was limited to the extent of Rs. 2,65,168/-. It is clarified that apart from earthquake cover, escalation risks that were covered, third party liability was limited to the extent of Rs. 2,65,168/- only.

12. It is further urged that respondent No.3/Insured had not subscribed to any policy for third party risk independently, so as to cover the risk for plying the JCB on public road. It appears that

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learned Presiding Officer, MACT-02, Central, Tis Hazari Courts, Delhi, has considered the aspect of liability of appellant/Insurance Company vide paragraph (29) onwards. However, the issue raised by learned counsel for the appellant/Insurance Company requires a deeper examination.

13. None appeared on behalf of claimants/respondent nos.1 and 3 despite advance notice. Let notice be issued afresh to the respondent Nos. 1 and 3 by all permissible modes including via approved courier as well, subject to the appellant/Insurance Company depositing the entire amount of compensation along with interest the learned MACT within four weeks from today.

14. However, for now, in the interest of justice as an interim measure to provide immediate relief to the respondent no.1, the widowed mother of the deceased, who was a bachelor, a sum of Rs. 7,00,000/- be released to her with interest up till date without prejudice.

15. Re-notify on 24.05.2024.

DHARMESH SHARMA, J.

JANUARY 19, 2024

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