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IN THE HIGH COURT OF DELHI AT NEW DELHI

+ MAC.APP.No.392/2008

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Date of decision: 13th October, 2009

SURESH KUMAR ARORA Appellant
Through : Mr. Kishore. M. Gajaria,
 Mr. Rajiv Shukla, Mr. Sushant
 Sharma, Mr. Bhawna Gaur,
 Mr. Naresh Yadav and
 Mr. Qazi Riaz Masood, Advs.

versus

NATIONAL INSURANCE CO.LTD. & ORS Respondents
Through : Mr. Pradeep Gaur, Adv.

**CORAM :-
THE HON'BLE MR. JUSTICE J.R. MIDHA**

1. Whether Reporters of Local papers may be allowed to see the Judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

JUDGMENT (Oral)

1. The appellant has challenged the award of the learned Tribunal whereby compensation of Rs.5,73,752/- has been awarded to claimants/respondents No.2 to 6.

2. The accident dated 14th March, 2006 resulted in the death of Yad Giri. The deceased was survived by his widow, two daughters, a son and parents who filed the claim petition before the learned Tribunal.

3. The accident in question was caused by truck bearing registration No.HR-38-8042 which was owned by the appellant and was insured with respondent No.1. Respondent No.1

contested the claim petition on the ground that the appellant was not holding the valid permit to ply the said truck in Delhi. Respondent No.1 placed on record the verification report of the permit – Ex.R3W1/B and the report of the Road Transport Authority – Ex.R3W1/C.

4. The learned Tribunal accepted the plea of respondent No.1 and granted the recovery rights to respondent No.1 to recover the award amount from the appellant after making the payment to the claimants.

5. The appellant has filed this appeal on the ground that the appellant was holding the valid permit to ply the offending vehicle in Delhi at the time of the accident. The appellant placed on record the permit to ply the offending vehicle in Delhi at the time of the accident. This document was not placed on record by the appellant before the learned Tribunal.

6. Vide order dated 13th May, 2009, respondent No.1 was directed to verify the genuineness of the permit through its Investigator.

7. In pursuance to the order dated 13th May, 2009, respondent No.1 verified the permit through its Investigator and found the same to be genuine. The verification report has been handed over by learned counsel for respondent No.1 which is taken on record.

8. Since respondent No.1 has verified the permit of the appellant to be genuine, respondent No.1 is not entitled to recovery rights against the appellant.

9. In view of the above, the appeal is allowed and the impugned award is set aside in so far as the learned Tribunal has granted the recovery rights to respondent No.1 to recover the award amount from the appellant.

10. The statutory amount deposited by the appellant along with this appeal be refunded to the appellant through counsel within four weeks.

11. Copy of this order be given 'Dasti' to learned counsel for the parties under the signature of Court Master.

J.R. MIDHA, J

OCTOBER 13, 2009

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