

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

Date of decision: 9th November, 2012

+ MAC. APP. 438/2007

KHOSLA TRANSPORT COMPANY Appellant

Through: Mr.Ashok Popli, Advocate

versus

DEVI RAM & ORS.

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE G.P.MITTAL

J U D G M E N T

G. P. MITTAL, J. (ORAL)

1. By virtue of the instant Appeal, the Appellant Khosla Transport Company who is the owner of the offending vehicle impugns a judgment dated 18.07.2005 whereby the Motor Accident Claims Tribunal (the Claims Tribunal) while awarding a compensation of ₹ 5,50,000/- in favour of the legal representative of the deceased Harish Kumar ((Respondent No.3) and making the Respondent Insurance Company liable to pay compensation it granted recovery rights on the ground that there was breach of the terms and conditions of policy as the driver of the offending vehicle did not possess a valid and effective driving licence at the time of the accident.
2. A perusal of the Trial Court record reveals that on 04.03.2005 the driving licence purported to be held by the driver (Respondent No.1 before the Claims Tribunal) and issued by the Motor Licencing

Authority, Agra was produced and the case was adjourned to 23.03.2005. On the said date, the Respondent Insurance Company again sought an adjournment for producing the witness from the RTA, Agra. The Case was adjourned for 07.04.2005. Since no witness was produced on that day, the evidence of the Respondent Insurance Company was closed. Admittedly, copy of the second driving licence was produced only on 04.03.2005, the Respondent Insurance Company should have been granted some time to prove the genuineness or otherwise of the said licence. The Claims Tribunal did not take into account the driving licence purported to have been issued by the Motor Licensing Authority, Agra and granted recovery rights against the Appellant.

3. In the facts and circumstances of the case, the impugned order so far as it granted recovery rights against the Appellant cannot be sustained; the case is remanded back to the Claims Tribunal with the direction to give an opportunity to the Respondent Insurance Company to prove if there was willful breach of the terms and conditions of the policy.
4. The Respondent Insurance Company shall obtain summons dasti to serve the witness and it shall be the responsibility of the Claims Tribunal to ensure the attendance of the witness thereafter.
5. The Appeal is allowed in above terms.
6. Pending applications stand disposed of.
7. The Appellant shall also be entitled to lead evidence if any in rebuttal.
8. The parties are directed to appear before the Claims Tribunal on 11.01.2013. The Claims Tribunal shall be at liberty to deal with the

question of multiple licence and decide the case in accordance with
law

(G.P. MITTAL)
JUDGE

NOVEMBER 09, 2012

v