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

Date of decision: November 17, 2016

+ **MAC.APP. 231/2008**

WASIM KHAN

..... Appellant

Through: Mr. Ashok Kumar Gahlot,
Advocate

Versus

THE ORIENTAL INSURANCE CO. LTD. & ORS.

..... Respondents

Through: Mr. Pradeep Gaur & Mr. Amit
Gaur, Advocates for respondent
No.1

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT

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ORAL

1. Impugned Award of 4th January, 2008 directs payment of compensation of ₹4,75,816/- with interest on account of death of *Dev Dutt Joshi*, aged about 35 years, in a road accident on 26th November, 1999. The appellant was driving the vehicle in a rash and negligent manner, due to which *Dev Dutt Joshi*, a Fabric Checker was hit by the offending vehicle while he was crossing the road near round about at Akbar Road, New Delhi.

2. Appellant is driver of offending vehicle, who assails the impugned Award on the ground that the recovery rights have been erroneously granted to respondent-insurer on the premise that appellant was holding

driving license for light motor vehicle and motor cycle whereas he was driving a heavy vehicle i.e. a mini bus.

3. Learned counsel for appellant draws the attention of this Court to a report (*Ex. R3W1/1*) issued by the concerned Motor Licensing Officer to show that the license of appellant was valid for heavy transport vehicle also w.e.f. 27th February, 1997. It is pointed out by learned counsel for appellant that accident in question took place on 26th November, 1999 and at that time, appellant's driving license was valid. It is pointed out by appellant's counsel that as per sub-section (2) (a) of Section 14 of *Motor Vehicles Act, 1988*, the driving license is valid for a period of three years and appellant's license was valid on the date of the accident. In this regard, attention of this Court is also drawn to appellant's driving license which was valid for heavy transport vehicle also and was subsisting and so, the recovery rights ought not to be granted to respondent-insurer.

4. Learned counsel for respondent No.1 fairly submits that the report (*Ex. R3W1/1*) issued by the concerned Motor Licensing Officer clearly indicates that appellant was holding a valid license but this was not put in cross-examination to the witness from the Motor Licensing office.

5. Be that as it may. In face of the report (*Ex. R3W1/1*) issued by the concerned Motor Licensing Officer and the driving license of appellant, it becomes crystal clear that appellant was holding a valid license for Heavy Transport Vehicle (HTV) on the date of the accident and so, the recovery rights ought not to have been granted to respondent-insurer.

6. In view of the aforesaid, appellant is absolved from paying the awarded amount and the liability to pay it is on the respondent-Insurer. The impugned Award, so far as it grants recovery rights to respondent-

insurer, is hereby set aside and rest of the Award is maintained. Meaning thereby, respondent-Insurer has to pay the awarded amount to the claimants, if already not paid.

7. With aforesaid directions, this appeal is disposed of.

(SUNIL GAUR)
JUDGE

NOVEMBER 17, 2016

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