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

Date of Decision: 06th May, 2016

+ **MAC.APP. 546/2007 & CM no. 12049/2007**

THE NEW INDIA ASSURANCE CO. LTD. Appellant

Through: Mr. Pankaj Seth & Mr. Shoumik
Mazumdar, Advs.

versus

KISHAN CHAND AND ORS. Respondents

Through: None.

**CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA**

JUDGMENT

R.K.GAUBA, J (ORAL):

1. The short issue to be addressed in this appeal brought by the insurance company is regarding its plea of breach of terms and conditions of the insurance policy in respect of the motor vehicle described as bus bearing registration no.DL-1PB-0146 that had caused accident (which gave rise to cause of action on 01.03.2002 in favour of the respondent). On his accident claim petition (suit no.319/2003), the claimant was awarded compensation by the motor accident claims tribunal (tribunal) by the impugned judgment rendered on 19.02.2007, whereby the submission of the insurer that there was a breach of terms and conditions of the insurance policy as the driver of

the offending vehicle was not holding a valid or effective driving license was rejected.

2. From the impugned judgment and tribunal's record, it appears that during investigation of the corresponding criminal case, the driver had handed over certified copy of a driving license (Ex.R3W1/1). The insurer made efforts to get the said document verified through its witness (R3W1). The verification report (Ex.R3W1/2) shows that the corresponding records were not traceable in the office of the licensing authority. Yet, the evidence of R3W1 would state that the license in question had not been issued by the concerned motor licensing officer. The tribunal rejected the plea of the insurer on the reasoning that the insurance policy did not contain any specific stipulation with regard to the driving license. While the tangent to which tribunal took the matter cannot be approved of, the facts remains that the corresponding record of the office of motor licensing officer having become untraceable, there is nothing on which it can be safely held that the driving license, copy of which was handed over by the driver, was not a genuine document.

3. In above view, the appeal must fail. It is dismissed accordingly.

4. The statutory amount, if deposited, shall be refunded.

**R.K. GAUBA
(JUDGE)**

**MAY 06, 2016
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