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

Date of Decision: 12.05.2016

+ **MAC.APP. 621/2007**

NATIONAL INSURANCE CO. LTD.

..... Appellant

Through:

versus

SURINDER KUMAR SHARMA & ORS.

..... Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT

R.K.GAUBA, J (ORAL):

1. By judgment dated 16.08.2007, the Motor Accident Claims Tribunal (tribunal) decided accident claim case (suit no.180/07/04) instituted on 05.06.2004 by the first respondent (claimant) and, while awarding compensation in the sum of Rs.91,826/- in his favour, directed appellant (insurance company) to pay the said amount as compensation on account of the injuries suffered by the claimant involving a motor vehicle bearing registration no.DL-1R-E- 9959 (offending vehicle) admittedly insured with it, the contention of the insurer on the ground that the driver of the offending vehicle was not holding a valid or effective driving licence was rejected. Nonetheless, the tribunal having found a case of breach of the terms and conditions of the insurance policy on such account granted recovery rights to the insurer against the driver and owner.

2. By the appeal at hand, the insurer pleaded that instead of being asked to pay and granted recovery rights, it should have been exonerated.
3. The appeal is unmerited. The right of the third party cannot be defeated. The interests of the insurer are duly protected by grant of recovery rights. [See *National Insurance Company V. Swaran Singh* (2004) 3 SCC 297 and *United India Insurance Company Ltd. V. Lehru & Ors.* (2003 3 SCC 338)].
4. In terms of earlier orders, the insurer had deposited the entire compensation, out of which 50% has already been released. The balance is lying with the tribunal. The said amount lying with the tribunal shall now be released to the claimants in terms of the impugned judgment.
5. Statutory deposits, if made, shall be refunded.
6. The appeal is disposed of in above terms.

MAY 12, 2016

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