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

Date of Decision: 28th March, 2016

+ **MAC.APP. 1134/2012 & CM No.18252/2012 (stay)**

UNITED INDIA INS CO LTD

..... Appellant

Through Mr. Sameer Nandwani with Mr. P
Acharya, Advs.

versus

CHANDAN SINGH & ORS

..... Respondent

Through Mr. Navneet Goyal, Adv. for R-1

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

JUDGMENT

R.K.GAUBA, J (ORAL):

1. Though the insurance company by this appeal had raised a number of issues against judgment dated 04.05.2012 passed by motor accident claim tribunal (tribunal) in MACT case No.1069/10/08, the only ground pressed is for recovery rights on the plea that the second respondent (Naseem) was not holding a valid or effective licence at the time of the accident involving three wheeler scooter No.DL 1RE 9307 (TSR) on 16.12.2007, resulting in injuries being sustained by the first respondent (Chandan Singh).

2. The tribunal by the impugned judgment granted compensation in the sum of Rs.1,40,314/- with interest at 9% per annum in favour of the claimant and directed the insurance company to pay, it being admittedly the

insurer against third party risk in respect of the TSR for the period in question. The plea of the insurance company for recovery rights or exonerated was rejected, *inter alia*, referring to the fact that the second respondent had denied being the driver of the offending vehicle (TSR) at the time of accident.

3. On careful reappraisal of the evidence led, it is found that the appeal must fail. It needs to be noted that the second respondent, while contesting, had denied that he was driver of the offending vehicle at the time of accident. Though some evidence seems to have been adduced indicating the involvement of the TSR in accident and negligence on the part of its driver, no clear evidence as to the engagement of the second respondent as the driver was brought on record. Merely on the fact that he was prosecuted in the corresponding criminal case does not mean the accusations in that regard are well founded or have to be assumed to be the entire truth. Some evidence showing the involvement of the second respondent as the driver was requisite. It is only thereafter that the question as to whether he was holding a valid or effective licence would arise.

4. Thus, the appeal is dismissed.

5. Statutory amount, if made, shall be refunded.

R.K. GAUBA
(JUDGE)

MARCH 28, 2016
VLD