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

+ MAC.APP. 58/2012

NEW INDIA ASSURANCE LTD Appellant
Through: Mr. Kanwal Chaudhary, Advocate

versus

SMT MEHTAB & ORS Respondents
Through: Mr. R.S. Juneja, Mr. Aishwarya Rao
and Mr. Yoesh Kumar Rana,
Advocates for respondents No.5(i) to
5(iii)

CORAM:
HON'BLE MR. JUSTICE J.R. MIDHA

% **ORDER**
24.10.2017

1. The compliance report filed by SBI is taken on record.
2. The appellant is claiming recovery rights against respondent No.5 on the ground that the driver of the offending vehicle was not holding a valid driving licence to drive a commercial vehicle.
3. Learned counsel for the appellant submits that the driver of the offending vehicle was holding a driving licence to drive LMV private vehicle and there was no endorsement on the driving licence to drive a commercial vehicle.
4. Learned counsel for respondent No.5 submits that there is no violation on the part of respondent No.5. It is submitted that respondent No.5 appointed the driver after taking the driving test of the driver and seeing the driving licence which contained endorsement that the driver was authorised to drive any commercial vehicle.
5. Learned counsel for the appellant submits that the record of the

transport authority does not contain any such endorsement authorising the driver to drive the commercial vehicle.

6. This Court is of the view that the appellant is not entitled to recovery rights as there is no wilful violation on the part of the owner of the offending vehicle as who took the driving test and appointed the driver after seeing the driving licence with an endorsement to drive the commercial vehicle. There is no infirmity in the finding of the Claims Tribunal to reject the appellant's claim for recovery rights.

7. The appeal is dismissed.

8. The statutory amount be refunded back to the appellant.

J.R. MIDHA, J.

OCTOBER 24, 2017
rsk