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

Decided on: 6th September, 2017

+ **MAC APPEAL No. 75/2010**

SHRI PAWAN CHAND Appellant

Through: Mr. Harpreet Singh & Mr.
Rajesh Gupta, Advs.

versus

RAKESH KUMAR @ RAKESH & ORS. Respondents

Through: Mr. Pankaj Seth, Adv. for R-3.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. By judgment dated 06.11.2009, which is impugned by the appeal at hand, on the claim petition (petition no.119/2008) of the first respondent, while awarding compensation in his favour for the injuries suffered by him in motor vehicular accident that occurred on 06.12.2007, due to negligent driving of car bearing registration no. DNN 0006, admittedly insured against third party risk with the third respondent (insurer), it (third respondent) being called upon to pay was granted recovery rights against the appellant, he being the registered owner of the offending vehicle on the basis of finding that the driving licence (R1W1/1) presented at the inquiry, upon verification, was found to be fake. The recovery rights are challenged by the appeal at hand.

2. It is noted that the appellant responded to the notice of the insurer under Order 12 Rule 8 of the Code of Civil Procedure, 1908 (CPC) by passing on the document (R1W1/1) as the copy of the driving licence retained by him while engaging the second respondent as the driver of the car. This by itself justifies the grievance expressed by the appellant. He had done what he could do at the relevant point of time. He was not expected to go to the transport authority to hold verification. For the fake licence, the consequence under the criminal law against the driver may follow but, on this ground, and without any further material showing he to be privy, the registered owner cannot be held to be in breach of terms and conditions of the insurance policy. [See *National Insurance Company V. Swaran Singh* (2004) 3 SCC 297 and *United India Insurance Company Ltd. V. Lehru & Ors.* (2003) 3 SCC 338].
3. Thus, the appeal is allowed, the impugned judgment insofar as it granted recovery rights against the appellant is set aside.
4. The statutory amount shall be refunded.

न्यायमेव जयते

R.K.GAUBA, J.

SEPTEMBER 06, 2017

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