$~R-299

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

Decided on: 09th October, 2017

\+ MAC APPEAL 126/2011 & CM 16759/2011

ORIENTAL INSURANCE CO. LTD. .... Appellant
Through: Mr. J.P.N. Shahi and Ms. Komal Dhingra, Advocates

versus

PRAVEEN KUMAR TANWAR & ORS. ..... Respondents
Through: None

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

JUDGMENT (ORAL)

1. The appellant (insurer) has been burdened with the liability to pay the compensation awarded by judgment dated 13.12.2010 on the accident claim case (MACT 799/02/08) of the first respondent on account of death of Jai Singh in a motor vehicular accident that occurred due to the negligent driving of a truck bearing registration no.DL-1G-7203. During the inquiry before the Tribunal, it had taken the plea that there was a breach of the terms and conditions of the insurance policy issued by it in the name of the third respondent (registered owner) in respect of the offending vehicle as it was not covered by a valid permit and further that the driver (second respondent) was not holding a valid or effective driving licence.

2. The appeal by the insurance company is pressed at the hearing only to seek recovery rights reiterating its case of breach of terms and conditions of the insurance policy.

3. It is noted that the copy of the permit (Ex. R2W1/C) was proved before the tribunal showing that the vehicle was covered by a valid permit for the period in question. On the issue of driving licence, the insurer had led some evidence which was neither here nor there. The report (Ex. R3W2/A) of an investigator was submitted but the same was based on some oral information gathered from the concerned licencing authority. Neither the investigator in question was examined nor any clear evidence from the transport authority was brought on record in respect of the invalidity of the driving licence which had been shown.

4. In above facts and circumstances, the appeal is found devoid of substance and is dismissed.

5. By order dated 25.02.2011, the insurance company had been directed to deposit the entire awarded amount with up-to-date interest as a pre-condition to the stay against execution. Fifty percent (50%) of such deposited amount was allowed to be released and the balance kept in fixed deposit account. The Registry shall release the balance lying in fixed deposit with accrued interest to the claimants.

6. The statutory amount shall be refunded to the insurance company.

7. The appeal and the pending application are disposed of in above terms.

R.K.GAUBA, J.

OCTOBER 09, 2017

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