

\$~R-313

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

Decided on: 11th October, 2017

+ **MAC APPEAL No. 264/2011 & CM 5849/2011 & 5850/2011**

OM PARKASH

..... Appellant

Through: None

versus

RAJU & ORS.

..... Respondents

Through: Mr. J.P.N. Shahi and Ms.
Komal Dhingra, Advocates for
R-3.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. By the impugned judgment dated 06.02.2008 in accident claim case (suit no.229/2004), the Motor Accident Claims Tribunal (Tribunal) while awarding compensation in favour of the fourth and fifth respondents (collectively, the claimants) on account of the death of Saurabh Ganda in a motor vehicular accident that had occurred on 29.10.2004 involving negligent driving of a bus bearing registration no.DL-1PA-2493 by the first respondent (driver), directed the third respondent (insurer) to pay but granting it recovery rights against the appellant, he being the owner of the vehicle, on the grounds that the driver had a driving licence which was valid upto 18.09.2004 but was renewed, after the accident, on 14.12.2004.

2. The issue raised by the appellant is covered by the judgment of this court dated 22.08.2017 in *MACA 203/2015 National Insurance Co. Ltd. Vs. Jagmohan Juneja & Ors*, dated 22.08.2017 wherein the following observations were made :-

“2. ...It is clear that the driver did have a valid driving licence sometime prior to the accident but the same had lapsed, the renewal coming after sometime. There is nothing shown from which it could be deduced that the absence of validity of the driving licence on the crucial date had contributed to the cause of the accident. The rule of main purpose as envisaged in National Insurance Company V. Swaran Singh (2004) 3 SCC 297 applies. Similar contention urged in Oriental Insurance Co. Ltd. Vs. Deepa & Ors., MACA 1042/2016 was repelled by judgment dated 11.08.2017...”

3. Following the view taken in the said previously decided similarly placed case, the appeal is allowed. The recovery rights granted against the appellant are set aside.

4. The appeal and the pending applications are disposed of in above terms.

OCTOBER 11, 2017

yg

R.K.GAUBA, J.