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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **MAC.APP. 255/2013 & CM No.43050/2016**
NEW INDIA ASSURANCE CO LTD Appellant
Through: Mr. Sanjay Rawat, Adv.
versus

JATIN ARORA AND ORS Respondents
Through: Mr. Suhail Malik and Mr. Vikas
Malik, Advs. for R1.

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

% **ORDER**
05.09.2017

1. The appellant has challenged the award of the Claims Tribunal whereby compensation of Rs.5,60,806/- has been awarded to respondent No.3.
2. The accident dated 28th February, 2008 resulted in grievous injuries to respondent No.3 who filed an application for compensation before the Claims Tribunal. The offending vehicle was owned by respondent No.1 and insured by the appellant at the time of the accident. The appellant contested the liability on the ground that respondent No.1 had no valid permit at the time of the accident. Respondent No.1 relies upon a temporary permit to ply the offending vehicle for the period 28th February, 2008 to 12th March, 2008.
3. The appellant is seeking recovery rights against the respondent No.1 on the ground that the temporary permit was issued on 29th February, 2008 and there was no valid permit on the date of the accident. Reliance is placed on the report of the Road Transport Authority, Sonipat according to which the respondent No.1 deposited the fees for temporary permit on 29th February, 2008 and, therefore, the temporary permit was issued on 29th February, 2008.
4. Learned counsel for respondent No.1 submits that the report being

relied upon by the appellant has not been proved in accordance with the law. It is further submitted that respondent No.1 disputes the appellant's claim for recovery rights against respondent No.1.

5. Learned counsel for the appellant seeks permission to lead additional evidence to prove the report of the Road Transport Authority before the Claims Tribunal.

6. In exercise of power under Order XLI Rule 27(1)(b) of Code of Civil Procedure, this Court considers the additional evidence necessary for determination of appellant's claim for recovery rights.

7. The appeal is partially allowed and the appellant's claim for recovery rights is remanded back to the Claims Tribunal. The appellant is permitted to lead additional evidence before the Claims Tribunal. After recording of the additional evidence, the Claims Tribunal shall grant opportunity to lead evidence to the respondent No.1. The Claims Tribunal shall adjudicate the appellant's claim for recovery rights against respondent No.1 and pass a fresh order. The parties shall appear before the Claims Tribunal on 08th November, 2017.

8. The record of the Claims Tribunal be returned back forthwith.

9. Copy of this order be given *dasti* to counsels for the parties under signatures of the Court Master.

J.R. MIDHA, J.

SEPTEMBER 05, 2017

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