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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **MAC.APP. 303/2014, CM APPLs. 5953-54/2014**
SANJAY

..... Appellant
Through: Mr. Syed Hasan Isfahni and Mr. Parveez
Zaidi, Advs.

Versus

THE ORIENTAL INSURANCE COMPANY LIMITED & ORS
..... Respondent
Through: Mr. R.B. Shami, Adv. for R-1.

CORAM:
HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER
% **09.05.2017**

CM APPL. 5954/2014 (for condonation of delay)

The appellant had not appeared before the MACT and sought this appellate remedy only at the stage of execution of the Award. There is however merit on the facts of the case and for the reasons stated in this application, the delay is condoned subject to payment of costs of Rs.50,000/- to the insurance company. Hence, the statutory deposit of Rs.25,000/- alongwith interest accrued thereon shall be released to the insurance company – R-1 and the deficient balance amount shall be paid by the appellant to the insurance company within three weeks from today.

The application is disposed off in the above terms.

MAC.APP. 303/2014 & CM APPL. 5953/2014 (stay)

At joint request, the case is taken up for final arguments.

This appeal impugns an Award permitting right of recovery to the

insurer against the appellant who is the owner of the vehicle. The learned counsel for the appellant submits that as on the date of the accident, the vehicle had the relevant permit for it to be plied on the road for carrying passengers. Permit [No.CC/28404/2000] of the offending vehicle [DL-1PA-6943] was proved as Ex.R-3/W-2 and was found to be valid from 23.10.2000 to 22.10.2005. Accordingly, it was valid as on the date of the accident i.e. 30.07.2001. Since the evidence in this regard is indisputable, the recovery right given to the insurance company against the owner of the vehicle is without basis. The mere non-production of the said document by the owner of the offending vehicle would not be so fatal so as to grant a right to recover the compensation against the owner of the vehicle, especially in view of the fact that the Permit has been duly proven on record by the Dealing Assistant, STA, Rajpura Road, New Delhi, duly attested by Assistant Secretary, STA, New Delhi as being valid as on the date of the accident. What is to be reckoned whether the vehicle was being plied with all requisite permissions. In this case it was. Therefore, the insurer could not have repudiated the claim. The conclusion arrived at in the impugned Award is without basis and is accordingly set aside. The appeal is allowed in the above terms.

NAJMI WAZIRI, J.

MAY 09, 2017

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