$~R-487

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

***Decided on: 15th November, 2017***

\+ MAC APPEAL 385/2012 and CM 6611/2012 (stay)

THE NEW INDIA ASSURANCE COMPANY LTD. ..... Appellant

Through: Mr. J.P.N. Shahi and Ms. Komal Dhingra, Advocates

versus

JITENDER & ORS. ..... Respondents

Through: None

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

**JUDGMENT (ORAL)**

1. By judgment dated 01.02.2012, in the accident claim case (MACT 469/08/06) of the first respondent (claimant) instituted on 29.03.2006, the Motor Accident Claims Tribunal (Tribunal) awarded compensation in his favour for the injuries suffered by him in a motor vehicular accident that occurred on 01.02.2006 involving negligent driving of a truck bearing registration no.HR-05GA-0284 admittedly insured against third party risk with the appellant (insurer).

2. The insurer while contesting the case had raised the plea of breach of the terms and conditions of the insurance policy on the ground that there was no valid permit. It led evidence in support of the said contention but the tribunal rejected the said plea taking note of

the fact that a valid national permit existed in respect of the vehicle which would cover Delhi where the accident had occurred, this on the basis of evidence of Sanjay Trigunayak (R3W2), an official from the office of Road Transport Authority, Saharanpur, U.P.

3. By the appeal at hand, the insurance company questions the liability fastened upon it contending that there was no clarity as to whether the permit was in the name of the registered owner or not. This plea must be rejected. The fact remains that it was duly proved that a national permit covering the Union territory of Delhi had been taken out. It was the burden on the insurance company to prove that it was not issued at the instance or in the name of the insured /the owner of the vehicle.

4. The appeal must fail and is accordingly dismissed.

5. By order dated 16.04.2012, the insurance company had been directed to deposit the entire awarded amount with up-to-date interest with the Registrar General. By order dated 19.03.2013, sixty percent (60%) was permitted to be released to the claimant. The balance shall also now be released to the claimant.

6. The statutory amount shall be refunded to the insurance company after proof is shown of the award having been satisfied.

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

**R.K.GAUBA, J.**

**NOVEMBER 15, 2017**
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