$~R-202

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

Decided on: 13th September, 2017

\+ MAC APPEAL No. 294/2010

NEW INDIA ASSURANCE CO. LTD. ..... Appellant
Through: Mr. D.D. Singh, Mr. Navdeep Singh & Surat Deep Singh, Advs.

versus

SHISH RAM & ORS. ..... Respondents
Through: Mr. Roshan Lal & Ms. Anju Gupta, Advs. for R-1 & 2.

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

JUDGMENT (ORAL)

1. The first respondent was the driver of the offending vehicle described as half body truck bearing registration no. HR 38B 0181, on account of negligence of which the motor vehicular accident that occurred on 20.12.2005, resulting in death of Suresh Kumar Solanki, had given rise to the cause of action in favour of third to fifth respondents (the claimants) to seek compensation they having instituted accident claim case (827/2008) on 08.02.2006. The said vehicle was admittedly registered in the name of the second respondent and insured against third party risk with appellant insurance company. It appears, during the inquiry, the insurance company had raised the plea of breach of terms and conditions of the

insurance policy on the ground that the driving licence presented by the driver after accident, upon verification, was found to be fake. However, during the course of proceedings before the tribunal, the first respondent produced another driving licence (Ex.R1W1/1) which was found to be valid and effective in respect of the vehicle for the period in question. It is on this ground that the defence taken by the insurance company was rejected and it was called upon by the tribunal, by judgment dated 14.01.2010, to pay the compensation determined by it to the claimants.

2. The appeal is pressed only to claim recovery rights against the first and second respondents on the ground that a person could not hold two licences at the same time and, therefore, the respondents should not have been permitted by the tribunal to produce two licences.

3. The plea is wholly devoid of merit, in the context of the jurisprudence in which it is raised. Holding of a document purporting to be a licence, it being fake or fabricated, is an offence punishable under the criminal law. But, the very fact that the said document was not a genuine document strikes at the root of the argument of the insurer, since on that basis it cannot be submitted that the driver was holding "two licences". The correct licence was produced later and it has been rightly accepted by the tribunal to deny the recovery rights to the insurer. The appeal is dismissed.

4. The statutory deposit made by the insurance company stand forfeited as costs in favour of Delhi High Court Legal Services Committee. It shall be made over by the registry to the said authority.

5. The amount of compensation has already been allowed to be released to the claimants. No further directions are called for.

R.K.GAUBA, J.

SEPTEMBER 13, 2017
nk