$~R-525

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

Decided on: 21st November, 2017

\+ MAC APPEAL 700/2012

RELIANCE GENERAL INSURANCE COMPANY LTD. ..... Appellant

Through: Mr. Pankaj Seth, Advocate

versus

SON PAL & ORS. ..... Respondents

Through: None

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

<u>JUDGMENT (ORAL)</u>

1. The liability to pay compensation in the accident claim case (case no.833/2008) of the first and second respondents (collectively, the claimants) has been fastened by the tribunal, by its judgment dated 30.04.2012 against the appellant (insurer), it admittedly having issued the insurance policy covering third party risk in respect of the offending vehicle described as a truck bearing registration no.UP-16-L-8742, the accident having occurred on 01.04.2007, resulting in death of Anil Kumar giving rise to the cause of action. The present appeal has been filed by the insurance company pressing it for grant of recovery rights against the driver and owner of the offending vehicle.

2. The insurance company had taken the defence of breach of terms and conditions of the insurance policy stating that the driver did

not hold a valid driving licence at the relevant point of time. It led evidence including verification report (Ex. R3W1/D) issued by Licencing Authority, Noida, which was proved by the testimony of its witness (R3W1), Asst. Manager (Legal). This report indicates that the third respondent (driver) had a valid licence, the validity of which had expired on 01.04.2006. Thereafter there was no renewal till the driver got it revalidated from 15.05.2007 onwards i.e. post the accident.

3. The issue is covered by decision of this court in *MACA 203/2015, National Insurance Company Ltd. Vs. Jagmohan Juneja*, decided on 22.08.2017. The rule of main purpose as envisaged in *National Insurance Company Ltd. V. Swaran Singh & Ors.* (2004) 3 SCC 297, applies.

4. The appeal is thus dismissed.

5. By order dated 09.07.2012, the insurance company had been directed to deposit the entire awarded amount with up-to-date interest with UCO Bank, Delhi High Court Branch and by subsequent order dated 19.12.2012, fifty percent (50%) was permitted to be released to the claimants. The balance shall now be released to the claimants in terms of the impugned judgment.

6. The statutory amount shall be refunded to the insurance company.

7. The appeal is disposed of in above terms.

R.K.GAUBA, J.

NOVEMBER 21, 2017
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