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

Decided on: 25th July, 2017

+ **MAC.APP. 346/2009**

ORIENTAL INSURANCE CO. LTD. Appellant

Through: **Mr. Ram N. Sharma, Advocate**

versus

SUBHAWATI DEVI & ORS Respondents

Through: **Mr. Manoj Ranjan Sinha,
Advocate**

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The issue raised in the appeal at hand by the insurer is that the driving licence of the fourth respondent, driver of the offending vehicle, though shown by the evidence to have been validly renewed by the Regional Transport Authority, Ambala was based on a document purporting to be a driving licence initially issued by such authority at Una in Himachal Pradesh which, in turn, was forged and fabricated.

2. Be that as it may, the record shows that the fifth respondent, the owner of the offending vehicle, also led evidence by examining Vijay Kumar Gupta (R2W1) to prove that at the time of engaging the said person as a driver, due diligence has been exercised not only by

putting him to test in the skill of driving, but also by checking the driving licence which was possessed by him.

3. Having regard to the view taken by this Court in *M/s. The New India Assurance Company Limited vs. Sh. Zakir Hussain & Anr.*, CM(M) 1104/2013, decided on 12.07.2017, *New India Assurance Company Limited vs. Sahira & Ors.*, MAC APP.269/2017, decided on 13.07.2017, and *The Oriental Insurance Company Limited vs. Anjleena Khurga & Ors.*, MAC APP.597/2017, decided on 17.07.2017 and the decision of the Hon'ble Supreme Court in *National Insurance Company vs. Swaran Singh* (2004) 3 SCC 297, the plea of the insurance company seeking to assail the judgment dated 27.05.2009 of the Motor Accident Claims Tribunal (the tribunal) to press for recovery rights cannot be accepted.

4. The appeal is, therefore, dismissed.

5. Statutory amount shall be refunded after proof has been adduced of the award having been satisfied.

न्यायमेव जयते

R.K.GAUBA, J.

JULY 25, 2017

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