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

Decided on: 25th July, 2017

\+ MAC APPEAL No. 438/2009

NEW INDIA ASSURANCE CO. LTD. ..... Appellant
Through: Mr. J.P. N. Shahi, Adv.

versus

SUBHASH RASTOGI & ORS. ..... Respondents
Through:

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

JUDGMENT (ORAL)

1. In the accident claim case (suit no. 132/07) based on the claim petition of the first and second respondents (claimants), decided by judgment dated 11.05.2009 of the motor accident claims tribunal, compensation was awarded in their favour and the liability was fastened on the appellant insurance company, it admittedly being the insurer of the offending vehicle for the period in question. It, however, appears that the insurance company had raised the plea of breach of terms and conditions of the policy, its concerns having been that the driver (the third respondent herein) was not holding a valid or effective driving license. The tribunal, however, held otherwise and declined to accept the defence of the insurer.

2. In appeal, the only contention urged is that the driving license proved was valid for light motor vehicle (LMV), the offending vehicle

being a light goods vehicle (LGV). This contention must be rejected with reference to the law laid down by Supreme Court in *Mukund Dewangan Vs. Oriental Insurance Co. Ltd., 2017 (7) Scale 731.*

3. Thus, the appeal is found devoid of substance and is dismissed.

4. The statutory amount shall be refunded.

R.K.GAUBA, J.

JULY25, 2017
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