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

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Date of Decision: 11th August, 2017

+ MAC.APP. 903/2012

IFFCO TOKIO GENERAL INSURANCE CO LTD..... Appellant
Through Mr. Mrinal Harsh Vardhan, Advocate.

versus

SEEMA & ORS Respondents
Through

CORAM:
HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

1. The appellant has challenged the impugned award of the Claims Tribunal to the extent that the Claims Tribunal has rejected the appellant's prayer for grant of recovery rights against respondents no.2 and 3.
2. Learned counsel for the appellant submits that respondent no.2 who was driving the offending vehicle at the time of the accident, was not holding any driving licence at the time of the accident and as such, there is a breach of the terms of the policy. It is further submitted that respondent no.2 was chargesheeted under Sections 279/337 IPC and Sections 3/181 of the Motor Vehicles Act. It is further submitted that the appellant issued a notice under Order 12 Rule 8 of the Code of Civil Procedure to respondents no.2 and 3 and the same was proved by R3W1 as Ex.R3W1/2. Respondents no.2 and 3 did not produce driving licence despite notice, Ex.R3W1/2.

3. Vide order dated 11th January, 2017, this Court requisitioned the record of the criminal case relating to FIR No.774/2007, P.S. Paschim Vihar. The original record has been perused. Respondent no.2 has been chargesheeted under Section 279/337 IPC and Sections 3/181 of Motor Vehicles Act. Respondent no.2 did not produce any driving licence before the Court in the criminal case. Respondent no.2 compounded the offence before the learned Metropolitan Magistrate on 2nd February, 2017.
4. There is merit in the contentions urged by learned counsel for the appellant. Respondent no.2 neither produced the driving licence before the police nor before the concerned Metropolitan Magistrate. Respondent no.2 as well as respondent no.3 did not produce the driving licence in response to the appellant's notice under Order 12 Rule 8 of the Code of Civil Procedure. Respondents no.2 and 3 have also not produced the driving licence before the learned Tribunal.
5. This Court is of the view that the appellant is entitled to the recovery rights to recover the award amount from respondents no.2 and 3.
6. The appeal is allowed and the appellant is granted recovery rights to recover the award amount from respondents no.2 and 3.
7. Copy of this judgment be given *dasti* to counsel for the appellant.

AUGUST 11, 2017
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J.R. MIDHA, J.