

\$~R-111

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

Decided on: 11th August, 2017

+ MAC.APP. 495/2009 and CM APPL.14277/2009

NEW INDIA ASSURANCE CO LTD. Appellant

Through: Mr. Rishi Kant Sharma, Advocate for
Mr. Kanwal Chaudhary, Advocate

versus

SONE LAL & ORS.

..... Respondents

Through: Nemo.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. By judgment dated 27.01.2009, the liability to pay the compensation determined by the Motor Accident Claims Tribunal (the tribunal), on account of death of Arun Kumar in a motor vehicular accident that occurred on 10.07.2004, was fastened against the appellant insurance company, it admittedly being the insurer of the tractor trolley bearing registration No.HR-08C-6602 at the instance of its owner, the seventh respondent.

2. The insurance company, by the appeal at hand, questions the aforesaid judgment on the ground that it could not have been held

liable since the driver was not holding a valid or effective driving licence.

3. At the hearing, the learned counsel for the appellant fairly concedes that no evidence was led by the insurance company on such defence. The tribunal's record shows that the seventh respondent, the owner of the motor vehicle in question had appeared as R2W1 affirming on oath that the driver had a valid driving licence. The said evidence remained unrebutted.

4. In these circumstances, the appeal is devoid of substance and is dismissed.

5. The insurance company had deposited the awarded amount which shall now be released to the claimants, unless already so released. In case of any deficiency, the claimants will have the liberty to move an appropriate application before the tribunal to enforce the award.

6. The appeal as well as pending application stand disposed of.

7. The statutory amount shall be refunded to the appellant insurance company.

R.K.GAUBA, J.

AUGUST 11, 2017

vk