

\$~R-621

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

Decided on: 5th December, 2017

+ **MAC APPEAL 1092/2012**

MOTI LAL

..... Appellant

Through: Mr. Pankaj Vivek, Advocate

versus

NATIONAL INSURANCE COMPANY LIMITED & ORS.

..... Respondents

Through: Mr. Shoumik Mazumdar,
Advocate for R-1

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The motor accident claims tribunal, by its judgment dated 15.02.2011, passed in accident claim case (Suit No.124/2010) of respondent nos. 3 to 5 (the claimants), while awarding compensation on account of death of Rinku in a motor accident that took place on 18.11.2009 due to negligent driving of Dumper Truck bearing registration no.HR-69-0395, fastened the liability to pay on respondent no.1 (insurer). It also granted recovery rights against the appellant and respondent no.2, they being owner and driver of the offending vehicle, on the ground that respondent no.2 was not holding a valid and

effective driving licence on the date of accident. It is the said recovery rights which are challenged by the appeal in hand.

2. During pendency of the appeal, appellant led evidence by examining himself (AW-1) on the strength of Affidavit (Ex.X) dated 11.02.2013 supported by photocopy of a Driving License AW1/1 issued by Department of Transport Officer, Banka (Bihar), confirming that the respondent no.2 (driver) held a valid driving licence on the date of alleged accident. The evidence of AW-1 was not challenged by Insurer.

3. In the above facts and circumstances, the appeal must succeed.

4. The impugned judgment to the extent rights of recovery were thereby granted by the tribunal is set aside.

5. The statutory deposit shall be refunded to the appellant.

6. The appeal stands disposed of in above terms.

DECEMBER 05, 2017

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R.K.GAUBA, J.