$~R-142

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

Decided on: 25th August, 2017

\+ MAC APPEAL No. 604/2009

NEW INDIA ASSURANCE CO. LTD. ..... Appellant
Through: Mr. D.K. Sharma, Adv.

versus

MOBIN & ORS. ..... Respondents
Through: None.

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

<u>JUDGMENT (ORAL)</u>

1. The insurance company on which the liability to pay compensation in favour of the first respondent on his claim petition (petition no. 454/2008) has been fastened, by judgment dated 23.07.2009, is in appeal to reiterate its plea for recovery rights on the ground, that there was breach of terms and conditions of the insurance policy. This contention is based on fact that the driving licence of the second respondent, who was the driver of the offending vehicle, though valid, had been issued on the basis of a previous document, it being fake. This plea cannot be accepted as the driving licence on the crucial date of cause of action was concededly valid and effective. The driver may be guilty of having committed an offence for use of the fake document to secure a driving licence, but that cannot mean that

the insurance company can take advantage out of it as against the owner of the vehicle.

2. The denial of the recovery rights, by the tribunal, by impugned judgment, is in accord with the view taken by this court in MAC appeal no. 30/2015 *Bharti Axa General Insurance Co. Ltd. vs. Bano Begum & Ors.* decided on 24th July, 2017.

3. The appeal is therefore, dismissed.

4. The statutory deposit shall be refunded.

R.K.GAUBA, J.

AUGUST 25, 2017
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