$~R-294

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

Decided on: 9th October, 2017

\+ MAC APPEAL 84/2011

JAGDISH AGGARWAL & ANR ..... Appellants
Through: None

versus

NATIONAL INSURANCE CO. LTD. & ANR. ... Respondents
Through: Mr.Pankaj Seth, Adv.

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

JUDGMENT (ORAL)

1. Recovery rights were granted in favour of the first respondent (insurer) against the appellant by the Motor Accident Claims Tribunal by its decision dated 26.08.2010 whereby the claim petition (Case No. 1319/08) of the claimant (the second respondent) was decided on the ground that the evidence would show that the driving licence held by the first appellant (the driver of the offending vehicle) had been issued on the basis of documents which were fake, they purporting to have been issued as driving licence by another transport authority. The appeal at hand challenges the said grant of recovery rights.

2. The issue is covered by a number of judgments of this Court in similar fact-situation, one of them being judgment dated 12.07.2017 C.M.(M) 1104/2013 titled as *M/s The New India Insurance Company Limited vs. Sh.Zakir Hussain & Anr.* Following observations in (para

3 and 4 of) the said judgment should suffice to allow the present appeal:-

> "*3. It appears that from the evidence led during the inquiry it was brought out that the driving license had been obtained by the first respondent on the basis of a document which was fake. The said driving license which had been obtained, however, had been renewed from time to time, the renewal and validity having been confirmed by the licensing authority. The obtaining of license on the basis of fake document was an act which would be illegal and also an offence punishable in law. But then, there is no evidence brought on record that the registered owner (insured) was privy to such dishonest act on the part of the first respondent. Fact remains that the transport authority through its official confirmed before the tribunal in the inquiry that the driving license for the period in question was valid and effective.*
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> *4. Having regard to the law laid down by the Supreme Court in National Insurance Co. Ltd. vs. Swaran Singh & Ors.(2004) 3 SCC 297, the plea of the insurance company cannot be accepted.*"

2. The impugned judgment to the extent it granted recovery rights in favour of the first respondent and against the appellants is set aside.

3. The statutory amount shall be refunded.

4. The appeal is disposed of with the above terms.

R.K.GAUBA, J.

OCTOBER 09, 2017
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