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

Decided on: 27th July, 2017

+ **MAC APPEAL No. 478/2017 & CM No. 19302/2017**

RAM NARAIN VERMA Appellant
Through: Mr. Ashok Popli, Adv.

versus

RAJANI & ORS. (RELIANCE GENERAL INS. CO. LTD.)
..... Respondents
Through: Mr. Rajeev M. Roy, Adv. for R-7.

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

JUDGMENT (ORAL)

1. The appellant is the registered owner of motor vehicle described as Tata 407 1LR 5072 which was involved in a motor vehicular accident that occurred on 06.05.2015, giving rise to cause of action for accident claim case (MACT 476700/16, old suit no. 154/2015) instituted by first to fifth respondents (collectively, the claimants). The claim arose out of death of Hori Lal Gautam @ Gore Lal Gautam, in the accident, statedly due to negligent driving of the vehicle by the sixth respondent. Admittedly, the vehicle was insured against third party risk for the period in question with the seventh respondent (insurer). While resisting the case, the insurer took the plea that there was breach of terms and conditions of the insurance policy, since the

sixth respondent (driver) was holding a driving license which was valid for light motor vehicle (LMV) whereas the vehicle involved here is light goods vehicle (LGV). The tribunal accepted this defence and, thus, while directing the insurer to pay the compensation to the claimants granted recovery rights to it against the appellant, by judgment dated 24.12.2016 (wrongly indicated in the judgment as 24.11.2016), which is impugned by the appeal at hand.

2. The plea of the appellant must be accepted in view of the law laid down by the Supreme Court in *Mukund Dewangan Vs. Oriental Insurance Co. Ltd.*, 2017 (7) Scale 731 and judgment of this Court in MAC Appeal No. 438/2009 decided on 25.07.2017 titled *New India Assurance Co. Ltd. vs. Subhash Rastogi & Ors.*

3. Thus, the impugned judgment to the extent it granted recovery rights against the appellant is set aside.

4. The appeal stands disposed of.

5. The statutory deposit shall be refunded.

JULY 27, 2017

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R.K.GAUBA, J.