$~R-146

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

Decided on: 30th August, 2017

\+ MAC APPEAL 624/2009

NATIONAL INSURANCE CO. LTD. ..... Appellant
Through: Mr. D.K. Sharma, Advocate

versus

PRAKASHI & ORS. ..... Respondents
Through: Mr. Ashok Popli, Adv. for R-1 & 2

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

<u>JUDGMENT (ORAL)</u>

1. By the impugned judgment dated 13.10.2009, while awarding compensation in favour of the first and second respondents (collectively, the claimants), the liability to pay was fastened on the appellant / insurance company (insurer) and its plea about breach of the terms and conditions of the insurance policy having been accepted on the basis of the finding that the driver of the offending vehicle (insured vehicle) did not hold a valid or effective driving licence, recovery rights were granted in its favour.

2. By the appeal at hand, the insurance company presses for total exoneration questioning the direction to pay in the first instance.

3. The said contention is noted but rejected as in the benevolent jurisdiction, third party rights cannot be defeated, the interest of the insurance company having been duly protected.

4. In terms of order dated 18.12.2009, the insurance company had deposited the awarded amount, out of which a part was allowed to be released by order dated 03.02.2010, the balance having been kept in fixed deposit receipt. The balance shall now be released to the claimants in terms of the impugned judgment.

5. The statutory deposit shall be refunded.

6. The appeal is disposed of in above terms.

R.K.GAUBA, J.

AUGUST 30, 2017
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