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

Decided on: 11th December, 2017

+ **MAC APPEAL 1277/2012 and CM 20928/2012 and 20929/2012**

ORIENTAL INSURANCE COMPANY LTD. Appellant
Through: **Mr. Pradeep Gaur, Advocate**

versus

AMRESH KUMAR & ORS Respondents
Through:

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

JUDGMENT (ORAL)

1. On the motor vehicular accident that occurred on 27.03.2011, giving rise to a cause of action to claim compensation in favour of the first respondent (claimant) by instituting accident claim case (suit no.95/2011), involving negligent driving of a motorcycle bearing registration no.DL-3S-AZ-1477 (motorcycle) by the second respondent (driver), it being a vehicle registered in the name of the third respondent (owner) at whose instance the appellant (insurer) had issued the insurance policy covering third party risk for the period in question, the Motor Accident Claims Tribunal (Tribunal), by its judgment dated 18.08.2012, awarded compensation in favour of the claimant and directed the insurer to pay. It is noted that the insurer while putting in contest had taken the defence that it could not be held liable as the driving licence held by the second respondent was valid

only for a light motor vehicle (LMV), it not being valid for purposes of a motorcycle, a distinct category of motor vehicle. The tribunal, however, rejected this plea.

2. The appeal at hand is pressed only to seek recovery rights against the second or third respondents.

3. The appeal was put in the list of 'Regulars' as per order dated 14.07.2015. When it is called out in its own turn, there is no appearance on behalf of the second or third respondents. The learned counsel for the insurer has been heard and with his assistance the record perused.

4. It is noted that the expression 'motorcycle' is defined by Section 2(27) of the Motor Vehicles Act, 1988 as a two wheeled motor vehicle whereas light motor vehicle (LMV) is a distinct category of vehicle covered by the definition given in Section 2(21) of the Motor Vehicles Act, 1988 to mean a transport vehicle or omnibus the gross vehicle weight of either of which or a motor car or tractor or road- roller the unladen weight of any of which does not exceed 7500 kg. The provision for issuance of licence is governed by Section 10 of the Motor Vehicles Act which treats a light motor vehicle separately as compared to a motor vehicle in the nature of a motorcycle (with or without gear). The motor vehicle in the nature of a motorcycle being a two wheeler motor vehicle definitely requires a different kind of skill to drive as compared to a light motor vehicle (generally speaking), which category is inclusive of four wheeled vehicles, the former by its very nature being unwieldy. The licence for LMV obviously cannot be valid or effective for purposes of a motorcycle. This is the view

taken by this court in earlier decisions including in *National Insurance Company Ltd. Vs. Savitri Devi and Ors.*, MACA 278/2009, decided on 17.07.2017.

5. In the above facts and circumstances, the prayer of the insurance company for grant of recovery rights is granted against the second and third respondents. For enforcement of such rights, the insurer may take out appropriate proceedings before the tribunal.

6. The statutory amount shall be refunded to the insurance company.

7. The appeal and the pending applications are disposed of in above terms.

R.K.GAUBA, J.

DECEMBER 11, 2017

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