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

Decided on: 03rd August, 2017

\+ MAC.APP. 761/2016 and CM No.34209/2016

YASHPAL SINGH ..... Appellant

Through: Mr. U.A. Khan and Mr. Shahrukh Khan, Advocates

Versus

NATIONAL INSURANCE CO LTD & ANR. ..... Respondents

Through: Mr. Amit Gaur, Adv. for R-1
Mohd. Shariq, Adv. for R-2

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

JUDGMENT (ORAL)

1. The appellant is the registered owner of a motor vehicle described as motorcycle, make Splender Plus, bearing registration no.DL-5S-AK-1514, which statedly was driven in a rash manner by the second respondent, it resulting in a motor vehicular accident that occurred on 28.12.2012 causing the death of Mohd. Rehan giving rise to cause of action for accident claim case (MACP 55/2013, new no.MACT 15244/15) to be submitted by his parents.

2. The Motor Accident Claims Tribunal (Tribunal), after inquiry on the said claim petition, by judgment dated 01.07.2016, awarded compensation and directed the first respondent to pay since it had issued an insurance policy covering third party risk in respect of the

offending vehicle for the period in question. The insurance company, however, had raised the plea that the licence of the second respondent was fake, such plea having been accepted on the basis of evidence adduced including, and particularly, the testimony of Dinesh Tiwari R3W2 (Juniur Clerk from the office of Regional Transport Office, Kanpur, Bihar).

3. The Insurance company was granted recovery rights against the appellant. It is the said direction which is assailed by the appeal at hand.

4. It is noted that the insurer had initially submitted inclination to settle the claim for compensation amicably. This led to statements on both sides being recorded by the Tribunal on 21.11.2013 leaving a formal award to be passed by the *Lok Adalat*. However, later the insurance company sought liberty to contest on the basis of input that the licence was fake. The contention of the appellant, and the second respondent, has been that the latter was holding a valid and effective driving licence, copy whereof (Ex. R3W2/4) had been submitted, it having been issued on 17.07.2009 and being valid till 16.07.2029, the evidence on record further showing (per Ex. R3W3/3) under endorsement and renewal carried out in 2013. The only ground on which the said documents have been disbelieved is the fact that the account books of the office of RTO, Kanpur, Dehat would not reflect the due deposit of the renewal fee of Rs.20/-. R3W2 during his testimony insisted that the driving licence was fake because there was no fee for issuance or renewal shown deposited in the accounts. At the same time, during cross-examination, he admitted that the driving

licence had been issued. He also stated that there was a case of corruption noticed in the concerned Transport Authority Office which had become subject matter of police investigation.

5. If the document held by the second respondent bears proper endorsement confirming it to have been issued as a driving licence which was valid for the period in question, the possibility of the licence fee having been subjected to defalcation by the concerned clerk of the Transport Authority cannot be used to hold the licence invalid. That will not only be unfair but also most unjust.

6. Thus, the appeal is allowed. The recovery rights granted against the appellant and second respondent are set aside.

7. The statutory deposit, if made, shall be refunded.

8. The appeal and the pending application are disposed of in above terms.

R.K.GAUBA, J.

AUGUST 03, 2017
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