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

Decided on: 10th August, 2017

\+ MAC APPEAL No. 519/2017

RELIANCE GENERAL INSURANCE CO. LTD. ... Appellant
Through: Ms. Prerna Mehta, Adv.

versus

SEHZEE & ORS. ..... Respondents
Through:

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

JUDGMENT (ORAL)

1. The appellant is concededly the insurer of motor vehicle bearing registration no. HP 19 8902 which was involved in a collision with another motor vehicle bearing registration no. RJ 14GA 8569 at about 7 p.m. on 26.06.2012 resulting in death of Umardeen giving rise to cause of action for accident claim case (MACT No. 275/2012) instituted by first to ninth respondents (collectively the claimants). It may be added that the owner and insurer of the other vehicle were also impleaded as parties to the said case.

2. The tribunal, by judgment dated 05.04.2017, which is impugned by the appeal at hand, held a case for compensation to be made out and awarded it in the sum of Rs. 14,73,400/- fastening the responsibility on the appellant. The appellant while putting in contest had taken the plea of breach of terms and conditions of the insurance

policy on the ground that the driving licence of the twelfth respondent (driver) was fake. Evidence in this regard was led by both sides with appellant examining Tribhuwan Mishra (R5W1), an official from the office of Regional Transport Office, Kanpur, UP and the said twelfth respondent and thirteenth respondent, he being the owner (insured) of the concerned vehicle, appearing as witnesses on their part. The tribunal, however, rejected the contention of the insurance company calling it upon to satisfy the award. It is the said view which is sought to be assailed by the appeal at hand.

3. Reliance is placed on the testimony of R5W1 primarily showing that in respect of the driving license presented by the twelfth respondent, there was no license fee shown deposited with the concerned RTO office. The tribunal set out its reasons for rejecting the plea as under:

> "*Whether or not requisite fee payment is mentioned in the cash payment register is none of the concern of the person like the defendant no.3 and same is solely and exclusively internal matter of the Office of ARTO, Farukhabad, UP. Once it is found that DL produced by the defendant no.5 is having the same contents are there in the corresponding record of the ARTO, DL of defendant no.5 cannot be said to be not legal on account of alleged non-payment of requisite licence fee inasmuch as mentioning or non-mentioning of such payment in the cash payment register is exclusively the internal matter of ARTO and defendant no.3 can be said to be having no role in this regard. No fault can be attributed to defendant no.3 it details of payment of requisite license fee are not there in the payment of cash register. Depositions made by RW-3 Balbir Chand and RW-4*

Ashwani Kumar in their cross-examination do not in any way help the defendant no.5 to avoid its liability under the insurance policy. Thus, DL of defendant no.5 cannot be said to be not effective and not valid."

4. The above view is in *sync* with the view taken by this Court in a similar fact situation in another appeal titled *Yashpal Singh vs. National Insurance Co. Ltd. & Anr.*, MAC Appeal No. 761/2016 decided on 03.08.2017 with the following observations:-

> *"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".*

5. Therefore, the appeal is devoid of substance and is dismissed.

6. The appellant has already deposited the award amount with upto date interest in terms of order dated 31.05.2017 with the tribunal. The said amount shall now be released to the claimants in terms of the impugned judgment.

7. The statutory amount shall be refunded.

8. The appeal is disposed of with these observations.

R.K.GAUBA, J.

AUGUST 10, 2017
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