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

Decided on: 30th October, 2017

+ **MAC.APP. 1173/2014**

NATIONAL INSURANCE CO LTD Appellant

Through: Mr. Arihant Jain for Ms. Shantha
Devi Raman, Advocate

versus

RATTAN LAL & ORS Respondents

Through

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The insurance company was burdened with the liability to pay the compensation by the tribunal by its judgment dated 19.09.2014 in accident claim case (case no.615/2010) instituted by the first respondent (claimant) awarding compensation for injuries suffered by him in a motor vehicular accident that had occurred on 28.11.2010 due to the negligent driving of a container bearing registration no.HR-46B-0925 by the second respondent (driver), the vehicle being registered in the name of the third respondent (owner). The insurance company had raised the plea of breach of the terms and conditions of the insurance policy on the ground that there was no valid permit or fitness certificate for the offending vehicle. The Motor Accident Claims

Tribunal (Tribunal) rejected this plea on the ground that no evidence had been led.

2. The insurance company brought the appeal and has pressed it only to seek recovery rights placing reliance on detailed accident report (DAR) substantiating its contention. The third respondent is the registered owner who, inspite of service, has failed to appear to assist.

3. In the above facts and circumstances, the proper course would be to remit the case to the tribunal for a limited inquiry into the issue of recovery rights sought by the insurance company against the third respondent so that it can avail of the opportunity to lead proper evidence with similar opportunity being available to the opposite party (owner of the vehicle) to adduce evidence in rebuttal, if any. Ordered accordingly. The parties in question are directed to appear before the tribunal on 29.11.2017 for further proceedings in accordance with law in above light.

4. The statutory deposit shall be refunded to the appellant.

5. The appeal is disposed of in above terms.

R.K.GAUBA, J.

OCTOBER 30, 2017

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