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

Decided on: 08th September, 2017

\+ MAC.APP. 808/2017 and CM Nos.32782-32785/2017

GSV PRODUCTS & ANR ..... Appellants
Through: Mr. Akhilesh Arora and Mr. R.N. Tiwary, Advocates

Versus

UNITED INDIA INSURANCE CO LTD & ORS .... Respondents
Through: Mr. Pankaj Seth, Adv. for R-1

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

JUDGMENT (ORAL)

1. A motor vehicular accident that occurred on 02.12.2015 which became subject matter of the accident claim case (old case no.51/2016, new MACT case no.477305/16) resulting in judgment dated 15.04.2017 of the Motor Accident Claims Tribunal (Tribunal), which is impugned by the appeal at hand involved negligent driving of oil tanker bearing registration no.HR-63-5427 proved at the inquiry to have been driven by the second appellant, it being a vehicle registered in the name of the first appellant, both of whom were parties before the tribunal during the inquiry, in addition to the first respondent / insurance company (insurer), it admittedly having issued an insurance policy covering the third party risk in such respect. The insurance company had raised the plea of breach of the terms and conditions of

the insurance policy on the ground the second appellant was not in possession of a valid or effective driving licence. It led evidence before the tribunal by examining Sunita Behl (R3W1), its Assistant Manager to prove that the driving licence (Ex. R1W1/1), on which the appellants had relied, did not have an endorsement requisite for driving a vehicle carrying hazardous goods, as was necessary. The tribunal also noted that the licence placed on record by the appellants had been issued on 13.01.2016 it not being valid for the date of accident i.e. 02.12.2015. On the basis of such material, the tribunal accepted the plea raised by the insurer in defence and while directing the insurer to pay the compensation determined in favour of the claimants (second to fifth respondents), granted recovery rights against the appellants.

2. The appeal at hand seeks to assail the said view leading to the recovery rights being granted.

3. The learned counsel for the appellant submitted that inadvertently the requisite proof of a valid licence could not be brought during the inquiry before the tribunal, such proof now having been mustered and presented in the form of copy of a verification report received under the Right to Information Act, 2005 from the Office of the Regional Transport Officer, Government of Nagaland submitted with appeal as Annexure 'B' (pages 65 to 67). The particulars of the driving licence are mentioned at page 66 which reveal the second appellant was in possession of a licence on the basis of which he was authorized to drive a motorcycle, a light motor vehicle-non transport or a light goods vehicle (transport only). Similar

is the import of the copy of the driving licence in question which is submitted as Annexure E (page 71).

4. On being asked, the learned counsel for the appellant fairly concedes that the vehicle in question was a heavy goods vehicle. In that view of the matter, the licence now referred to cannot be a good defence to the plea raised by the insurer to seek exoneration from the recovery rights.

5. The appeal is thus, devoid of substance and is dismissed in *limine*. The pending applications also stand dismissed.

6. The statutory deposit shall be made over to the insurer towards part satisfaction of its recovery rights. For the balance, the insurer is at liberty to take out appropriate proceedings.

R.K.GAUBA, J.

SEPTEMBER 08, 2017
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