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

+ **MAC.APP. 475/2011**

NATIONAL INSURANCE CO LTD Appellant

Through: Mr. A.K. Soni, Advocate

versus

PREM DEVI & ORS Respondents

Through: Ms. Jyoti Gupta, Advocate for R-6.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **17.04.2018**

The only issue pressed at the hearing is that the fifth respondent (driver of the offending vehicle which was insured with the appellant) was not holding a valid or effective driving licence on the date and time of the accident. The prayer of the insurance company for exoneration on this ground was declined by the tribunal by judgment dated 19.03.2011, it not feeling satisfied with the evidence of Jagdish Chander (R3W1), Assistant Manager of the appellant company.

Having heard the learned counsel for the appellant, this Court finds no merit in the appeal. The evidence of R3W1 (copy at pages 22-23 of the paper book) itself shows the effort to prove the breach was half-hearted and not founded on any cogent material. All that the witness had to say was that the document presented as the driving licence “seems to be fake” which is neither here nor there.

The appeal is dismissed.

The entire awarded amount with upto date interest was deposited with the Registrar General by order dated 25.05.2011 and upon such deposit being made 50% was allowed to be released to the claimants, the balance kept in fixed deposit receipt. The balance shall also now be released to the claimants. If there is any deficiency in the deposit, the claimants will be entitled to take out appropriate execution proceedings.

The statutory amount shall be refunded.

R.K.GAUBA, J.

APRIL 17, 2018

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