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

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Date of Decision: 24th May, 2018

+ **MAC.APP. 867/2017**

MEGH RAJ DHAKA

..... Appellant

Through: **Mr. Manoj Bhandari, Advocate**

versus

NEW INDIA ASSURANCE CO LTD & ORS

..... Respondents

Through: **Mr. Vinod Trisal, Advocate for R-1**

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

CM APPL. 35170/2017

1. Delay in filing the appeal is condoned.
2. Application is disposed of.

MAC APP. 867/2017 & CM APPL. 35171/2017

3. The appellant has challenged the award of the Claims Tribunal insofar as the Claims Tribunal has granted recovery rights to respondent No.1 to recover the award amount from the appellant on the ground that the driver was not authorised to drive the offending vehicle.
4. The appellant is the owner of offending vehicle RTV (CNG) bearing no.DL-1VA-3183. The appellant examined himself as RW-2 and deposed that he appointed respondent No.3 as the driver after taking his driving test and after seeing respondent no.3's driving license. The appellant further

deposed that the name of the respondent no.3 has been wrongly mentioned in the driving license as 'Shiv Shankar Shukla' instead of 'Ravi Shankar Shukla'. The appellant deposed that Ravi Shankar Shukla and Shiv Shankar Shukla is the same person and the driving license is genuine.

5. Respondent no.1 examined the witness from the Transport Authority, Mathura who confirmed that the photograph on the driving license Ex.R3W2/1 is of respondent no.3.

6. Learned counsel for the appellant submits that it is clear from the statement of the witness from the Road Transport Authority, Mathura that there is a typographical error in the name of respondent no.3 but the license is genuine. Learned counsel for the appellant further submits that respondent no.3 was duly empowered to drive the RTV. Reliance is placed on the recent judgment of the Supreme Court in *Mukund Dewangan Vs Oriental Ins.Co.Ltd. AIR 2017 Supreme Court 3668* in which the Supreme Court held that the driver holding a driving license for Light Motor Vehicle is competent to drive a transport vehicle with an unladen weight of less than 7500 kgs. It is submitted that offending vehicle is less than 7500 kgs.

7. This court is satisfied that respondent no.3 was holding a valid driving license. This Court is also satisfied that respondent no.3 was competent to drive offending vehicle at the time of the accident. In that view of the matter, respondent no.1 is not entitled to recovery rights against the appellant.

8. The appeal is allowed and the recovery rights granted by the Claims Tribunal to recover the award amount from the appellant are hereby set aside.

9. CM APPL. 35171/2017 is disposed of.

10. The statutory amount be refunded back to the appellant.

11. Copy of this judgment be given *dasti* to counsels for the parties under signatures of the Court Master.

MAY 24, 2018
ds

J.R.MIDHA, J.

