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

+ MAC.APP. 26/2016 and CM APPL.1082/2016 (stay), CM
APPL.1083/2016 (delay)

OM PRAKASH & ANR Appellants
Through: Mr. Deepak Mehar Singh, Advocate

versus

RAM SUGARATH RAM & ANR (THE ORIENTAL INSURANCE
COMPANY PVT LTD) Respondents
Through: Mr. R.B. Shami, Advocate for R-2.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **05.03.2018**

The recovery rights were granted against the appellants and in favour of the second respondent (insurer) by the motor accident claims Tribunal by judgment dated 02.07.2012 on the claim petition (MACT No.379/07/08) of the first respondent, awarding compensation in the total sum of Rs.4,59,707/- on the ground that the insured vehicle (tempo bearing registration No.HR-63A-2679), the negligent driving of which had given rise to the cause of action, was not covered by a valid permit on the date of the accident, *i.e.*, 31.08.2007.

The appeal was filed belatedly contending that the valid permit did exist, this being referred to at the time of hearing leading to the following order dated 19.09.2017 being passed :-

“A perusal of the record indicates that the ground on which recovery rights were granted was that the appellants had not brought before the Tribunal any document showing the vehicle to be covered by a permit for the date and place of the accident, this in spite of notice under Order XII Rule 8 CPC shown by evidence to have been served on them. The appellants have submitted copy of a national permit (annexure ‘C’ at page 75) stating that the said document answers the objection of the insurance company. The insurance company is directed to have the said document verified and submit a report in this regard. The appeal be listed on 29.11.2017.”

Pursuant to the above mentioned directions, the insurer has submitted permit verification report dated 02.11.2017, which was brought on record on 10.11.2017. The counsel for the insurer confirms that this report shows that a valid permit did exist.

The delay in filing the appeal is condoned.

The recovery rights granted in favour of the insurer are set aside.

The statutory deposit made shall be refunded to the appellants.

The appeal and the applications filed therewith stand disposed of in above terms.

Order *dasti*.

R.K.GAUBA, J.

MARCH 05, 2018
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