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

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Decided on: 19.11.2019

+ **MAC.APP. 885/2019, CM APPL. 49778/2019 & CM APPL. 49779/2019**

NATIONAL INSURANCE CO LTD

..... Appellant

Through: Mr. Pankaj Seth, Advocate.

versus

AVITA & ORS

.... Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J (Oral)

1. This appeal impugns the award of compensation dated 03.08.2019 passed by the learned MACT in MACP No. 473/16, on the ground that the driver of the offending vehicle had neither attained the age of 20 years at the time of the motor accident, nor was he a class 8th passed, therefore, he could not have possibly been a valid licence holder of a commercial vehicle as per section 4 sub-section 2 and section 7 of the Motor Vehicles Act, 1988. The four-wheeled motor car was being driven as a passenger taxi.

2. The learned Tribunal has dismissed the aforesaid contention on the basis of the dicta of the Supreme Court in *Mukund Dewangan Vs. Oriental Insurance Co. Ltd.*, 2017 ACJ 2011, which held that a person who holds a driving licence for LMV (NT) is skilled enough to drive a vehicle having a

weight of not more than 7,500 kgs. The present motor car has a weight of less than 7,500 kgs. Once the Supreme Court has held that a holder of LMV (NT) vehicle can drive upto 7,500 kgs of vehicle, all objections in this regard are *per se* untenable. Therefore, ***Mukund Dewangan*** (supra) would cover the driver of the offending vehicle against any liability.

3. The appeal is without merit and is accordingly, dismissed.

4. The statutory amount, alongwith interest accrued thereon, be deposited into the 'AASRA' Fund created by this Court.

NAJMI WAZIRI, J

NOVEMBER 19, 2019

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