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

% *Decided on: 05.09.2019*

\+ **MAC.APP. 722/2019, CM APPL. 36428/2019, CM APPL. 36429/2019 & CM APPL. 36430/2019**

RAMESH KUMAR ..... Appellant

Through: Mr. M.K. Vashishth, Advocate.

versus

RELIANCE GENERAL INSURANCE CO LTD & ORS

..... Respondents

Through: Mr. Rajeev M. Roy and Mr. P. Srinivasan, Advocates for R-1.

CORAM:
HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J. (Oral)

1. This appeal impugns the award of compensation dated 24.03.2017 passed by the learned MACT in Suit No. 138/2014 (new Suit No. 357724/16), on the ground that the right of recovery granted to the insurer apropos payment of the compensation amount is erroneous.

2. It is argued that the insurance company has neither pleaded nor proved before the learned Tribunal its contention that the owner of the offending insured vehicle knew that his driver possessed a fake license. The said argument is untenable because it is not for the insurer to prove what was in the mind of the owner/insured. The presumption will be against the owner that there was no driving license in the first place. The

appellant/owner of the offending vehicle was called upon by the insurer to produce the driving licence of the driver of the vehicle at the time of the accident. There was no response to the said request and no document was produced in this regard. The licence of the driver of the offending vehicle was seized by the police upon the statement of an officer from the RTO Mathura, Uttar Pradesh that the driving licence bearing No. 4810/MTR/06 was issued in the name of Shiv Ram, s/o Shri Braji, R/o Seegu Thok, Chhata, Mathura, Uttar Pradesh for a period of 02.05.2006 to 01.05.2026 for motorcycle with gear/LMV and not in the name of the person who was apprehended as the driver of the offending vehicle. The appellant chose not to participate in the trial before the learned MACT and had not replied to the request of the insurer as mentioned hereinabove.

3. No case is made out. There is no reason to interfere with the impugned order. The appeal is, accordingly, dismissed. The pending applications also stand dismissed.

4. The statutory amount of Rs. 25,000/- shall be paid to the insurer, alongwith interest accrued thereon, towards adjustment of the recovery amount.

NAJMI WAZIRI, J

SEPTEMBER 05, 2019

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