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

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Decided on: 28.02.2020

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MAC.APP. 114/2020

RENU KALRA

..... Appellant

Through: Mr. Ram N. Sharma, Advocate.

versus

JAMEEL & ORS (M/S SHRI RAM GENERAL
INSURANCE CO LTD)

..... Respondents

Through: Mr. Arun Yadav, Advocate for R-3.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J (Oral)

MAC.APP. 114/2020 & CM APPL. 8114/2020

1. This appeal impugns the award of compensation dated 11.12.2015 passed by the learned MACT in Unique Case ID No. 02402C0022472014, which granted right of recovery to the insurer against the petitioner-the registered owner of the vehicle. The vehicle was insured by respondent no.3-the insurer at the time of the accident and it indemnified the losses.

2. The learned counsel for the appellant submits that the accident happened at a time when the appellant had not yet become the owner of the vehicle i.e. somebody else was its actual and registered owner.

3. The appellant did not participate in the proceeding after filing her reply, therefore, she was proceeded *ex parte* and the award was passed

against her. The appellant contends that she knew no better about the proceedings because allegedly, her counsel did not keep her informed about the case. It is argued that she had averred that she had seen the license of the prospective driver and the copy of the same has been annexed with her reply to the claim petition.

4. She contends that unless the said Driving License was proven to be false, the vehicle owner would get the benefit of law settled in *United India Insurance Co. Ltd. vs. Lehru & Ors.* AIR 2003 SC 1292 and in *National Insurance Co. Ltd. vs. Swaran Singh & Ors* (2004) 3 SCC 297 i.e. the owner of the vehicle should have seen the license which *ex-facie* should have appeared to be genuine and thereafter tested the skills of the prospective driver, and having found it of a satisfactory level, to have then employed the driver.

5. The impugned order has not discussed the genuineness of the driving license. In the circumstances, grant of right of recovery to the insurer is premature. The award in this regard, is set aside. The case is remanded to the learned Tribunal for adjudication on the genuineness and validity of the Driving License which is annexed at page 75 of this appeal.

6. Since the case pertains to a *lis* which arose in the year 2013 and eight years have gone-by, the learned Tribunal is requested to endeavour to adjudicate the issue preferably within a period of six months from the date when the case is next listed before it. The learned counsels for the parties assure the Court that they shall assist the learned Tribunal on every date and shall not seek any adjournment whatsoever when the case is so listed.

7. The parties shall appear before the learned Tribunal on 26.03.2020.
8. The appeal is disposed-off in terms of the above.

NAJMI WAZIRI, J

FEBRUARY 28, 2020

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