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

% *Decided on: 02.03.2020*

\+ MAC.APP. 121/2020 & CM APPL. 8321/2020

VIVEK TRAVELS ..... Appellant

Through: Mr. R.K. Kohli, Advocate.

versus

NATIONAL INSURANCE CO LTD & ORS ..... Respondents

Through: Mr. Pankaj Seth, Advocate for insurance company.

CORAM:
HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J. (Oral)

CM APPL. 8320/2020 (delay of 15 days in filing)

1. This application seeks condonation of delay in filing of the appeal.

2. For the reasons mentioned in the application, the delay is condoned, subject to payment of Rs. 15,000/-, as costs, to the insurance company.

3. The application stands disposed-off.

MAC.APP. 121/2020 & CM APPL. 8321/2020

4. Issue notice.

5. The learned counsel named above accepts notice on behalf of the insurance company.

6. The appeal is taken up for disposal.

7. This appeal impugns the award of compensation dated 25.10.2019 passed by the learned MACT in New MACT Case No. 76246/16, inasmuch as the insurer has been granted right of recovery against the appellant-vehicle owner/Mr. Vivek Bhatia. It is the appellant's contention that he had hired-out the motor vehicle upon presentation of the driving licence of the hirer, which at first glance, appeared to be genuine. The licence bore no. P03052000202300 and was valid till 30.05.2019 with effect from 31.05.2000. Therefore, according to the appellant, on the date of accident, there was a valid driving licence and nothing more was required to be done on behalf of the appellant. In its evidence, the appellant reiterated its impression, of the driving licence being valid. It claims benefit of the settled law in *United India Insurance Co. Ltd. vs. Lehru & Ors.,* AIR 2003 SC 1292, *National Insurance Co. Ltd. vs. Swaran Singh & Ors, (*2004) 3 SCC 297 and *Pepsu Road Transport Corporation vs. National Insurance Co.,* (2013) 10 SCC 217.

8. The affidavit in evidence of the appellant reads, *inter alia*, as under:

> *"....*
>
> *3. That the deponent states that vehicle No. DL-IN-7538 was registered in the name of the respondent No. 2 and the same was given to Narender Singh who was the customer on rental basis after having seen the driving license issued by MLO South Zone, Registering Transport Authority, Delhi.*
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> *4. That the deponent states that the copy of the driving license bearing No. P030520002020300 valid upto 30-05-2019 w.e.f. 31-05-2000, copy of which has already been submitted along with written statement as well as after receipt of notice U/o. XII Rule 8 CPC of the counsel of Respondent No. 3.*
>
> *......"*

9. The appellant's cross-examination by the insurer reads as under:

"…….

XXX by Ms. Vandana Surana, Ld. Counsel for the insurance company.

I am in the business of Car Rental Company under the name and style of Vivek Travels Pvt. Ltd. I own 750 cars and buses. Approximately 350 drivers are on the payroll of Vivek Travels Pvt. Ltd. Vol. Some of the cars are being given on rent for self driving purposes, Whenever, the car is rented out for self driven purposes, the copy of the DL of the driver and one more ID is being obtained. Vol. ID is optional. The DL. of the driver to whom the car is rented out for self driving purposes is being verified. If someone is having the DL of outside Delhi, the car is rented out 10 that fellow only if his DL can be verified online.

Narender i.e. respondent no.1 failed to inform the respondent no.2 at the time of the accident. I do not remember as to when the respondent no.1 informed the respondent no.2 about the accident.

At this stage, the witness is shown the copy of the DL filed by the IO alongwith the DAR in the name of Narender Singh bearing no. 48536 dated 15.01.2014 and the witness states that the said DL was not given by respondent no.1 to us while taking the car on rent. The said DL bearing no. 48536 is marked as Mark X. It is wrong to suggest that I am deposing falsely.

….."

10. The rationale for the learned Tribunal in granting rights of recovery is that the driving licence seized by the Investigating Officer bore no. 48536, which was found to be fake by the IO.

11. Be that as it may, the driver producing a fake driving licence to the Investigating Officer, would have its own consequences under relevant laws. However, insofar as he has produced a driving licence which has not been found to be fake nor its veracity being questioned by the insurer, nothing more was required to be done by the owner of the offending vehicle, apropos ensuring the validity of the driving licence, produced by the prospective hirer/driver.

12. In the circumstances, the rationale and conclusion of the impugned order that the appellant did not prove the driving licence to be valid is incorrect.

13. To the extent that the impugned order has granted rights of recovery to the insurer, it is erroneous and is accordingly set aside.

14. The appeal is allowed and disposed-off in terms of the above.

15. The statutory amount, alongwith interest accrued thereon, be returned to the appellant.

NAJMI WAZIRI, J

MARCH 02, 2020

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