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

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Decided on: 06.02.2020

+ **MAC.APP. 304/2018 & CM APPL. 11301/2018**

RAVI DUTT GUPTA & ANR

..... Appellants

Through: Ms. Vipin Gupta and Mr. Krishna
Kumar, Advs.

versus

ORIENTAL INSURANCE CO LTD

..... Respondent

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

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J. (Oral)

CM APPL. 11303/2018 (for delay)

1. For the reasons mentioned in the application, it is allowed.
2. The delay in filing the appeal is condoned.
3. The application stands disposed-off.

MAC.APP. 304/2018 & CM APPL. 11301/2018

4. This appeal impugns the award of compensation dated 14.02.2013 passed by the learned MACT in Suit No. 653/2011, wherein right of recovery was granted to the respondent/insurer against the owner and driver of the offending vehicle. The latter held a valid driving licence at the time of the motor accident but did not have the requisite endorsement to drive a commercial vehicle.

5. The Court would note that in terms of the dicta of the Supreme Court in *Mukund Dewangan vs. Oriental Ins. Co. Ltd.* (2016) 4 SCC 298, a person who holds a driving licence for driving a Light Motor Vehicle (LMV) can drive such vehicle weighing upto 7,500 kgs, irrespective of the endorsement. In view of the above, the impugned order granting the right of recovery to the respondent/insurer, is accordingly set aside.

6. The appeal is disposed-off in the above terms.

7. Of the statutory amount of Rs. 25,000/-, Rs. 10,000/- be deposited into the 'AASRA' Fund created by this Court for the treatment and rehabilitation of burn victims and the remaining amount of Rs. 15,000/- be returned to the appellants.

FEBRUARY 06, 2020

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NAJMI WAZIRI, J

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