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

Decided on: 23.01.2020.

+ MAC.APP. 644/2016, CM APPL. 30125/2016, CM APPL.
41781/2016 & CM APPL. 30123/2016

M/S SEVA BHARTI

..... Appellant

Through: Mr. Sameer Nandwani and Mr.
Abhay Singh Bhadoria, Advocates.

versus

MOHD SADIQ KHAN & ORS (ICICI LOMBARD GENERAL
INSURANCE CO LTD

.....Respondents

Through: Mr. Azad Ali, Advocate for R-1.
Mr. Chandra Shekhar Biswas,
Advocate for R-2 & R-4.
Mr. Pankaj Gupta, Advocate for Ms.
Suman Bagga, Advocate for R-3.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J. (Oral)

1. This appeal impugns the judgment dated 25.05.2016 passed by the learned MACT in Suit No. 31/14, on the ground that the sole reason for the insurer not indemnifying the loss under an existing insurance cover, was that the driver of the offending vehicle did not produce a valid driving licence.

2. The learned counsel for the appellant submits that a driving licence has now been brought on record which was not available to the appellant since he had sold the vehicle many years ago to respondent no. 4 in the

appeal. He would like to adduce relevant evidence in this regard. He is permitted to do so.

3. Mr. Pankaj Gupta, the learned counsel for the insurance company submits that: (i) a driving licence, which was allegedly recovered by the Investigating Officer, was produced before the learned Tribunal, which upon verification was found to be false, and (ii) despite notice having been served upon the driver, he did not participate in the proceedings.

4. However, now the driver has produced a driving licence bearing no. UP86 200700261 10, which purportedly covers the period of accident. It was issued on 19.12.2007 for LMV and on 21.07.2010 for Transport Vehicles. If upon verification, this driving licence is found to be correct and genuine, then surely the insurer would have to cover the liability.

5. In view of the above, it will be in the interest of justice that the parties be allowed to lead evidence apropos this document. Accordingly, the case is remanded back to the learned Tribunal for determination of whether the said licence is genuine or not.

6. For this purpose, the parties shall appear before the learned Tribunal on 27.02.2020. Since the case pertains to an accident which occurred in 2013, the learned counsel for the parties will request the learned Tribunal that the case be disposed-off within a period of two months from the date when the case is next listed before the learned Tribunal. They assure the Court that they would not seek any adjournment and will assist the learned Tribunal promptly on each date whenever the case will be listed.

7. The appeal is allowed and disposed-off with the above directions.

8. Let the LCR be returned to the learned Tribunal.

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

CM APPL. 41780/2016 (cross objections by R-1)

10. Let the cross objections, if in order, be numbered as a separate MAC. Appeal by the Registry.

11. Issue notice. The learned counsel named above accepts notice on behalf of the non-applicant/insurance company.

12. The learned counsel for respondent no. 1 submits that in the interim, he shall obtain an E-copy of the LCR to prepare himself so as to assist the Court fully on the next date.

13. List for arguments on 16.07.2020.

14. LCR of MAC.APP. 644/2016 be retained and be tagged alongwith the cross objections.

JANUARY 23, 2020

AB

NAJMI WAZIRI, J

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