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

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Judgment delivered on: 02.12.2021

+ MAC.APP. 277/2021 & CM APPL. 37502/2021

SHRI SUKHBIR SHARMA

..... Appellant

versus

THE NATIONAL INSURANCE COMPANY LTD & ORS.... Respondents

Advocates who appeared in this case:

For the Petitioner: Mr. Anand Singh and Mr. Kartik Malhotra, Advocate
(through VC).

For the Respondent: Mr. Manoj Ranjan Sinha and Mr. Aaditya, Advocates.

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Appellant impugns award dated 31.07.2020 to the limited extent that right of recovery has been granted to the insurance company against the appellant/owner.
2. Learned counsel for the appellant submits that the Tribunal has erred in granting the recovery rights on the ground that there was no valid permit to ply the vehicle in Delhi whereas the vehicle was registered in Haryana.
3. Learned counsel submits that the Tribunal has committed the error in view of the answer given by the petitioner in his cross examination wherein he had stated that he was not aware if any authorisation is required for a heavy goods vehicle to be plied outside the home state where it is

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MAC.APP. 277/2021

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registered.

4. Learned counsel points out that appellant had duly proved the authorisation certificate as Exhibit R2W1/1. He submits that the permit exhibit R2W1/1 clearly records that the authorisation is issued on 23.06.2016 and valid throughout the territory of India upto 23.06.2017. He submits that the accident had taken place on 15.01.2017.

5. Learned counsel submits that in view of the fact that the permit was valid throughout the territory of India, Tribunal has clearly erred in granting recovery rights to the insurance company.

6. Perusal of the authorisation certificate exhibit R2W1/1 shows that the same is an authorisation certificate National Permit (Goods) and is valid throughout the Territory of India upto 23.06.2017. Subject accident had taken place on 15.01.2017 when there was a valid permit.

7. From the award it appears that the Tribunal was influenced by the answer given by the witness during his cross examination wherein he had deposed that he was not aware if any authorisation was required for a heavy goods vehicle to be plied outside the home State where the vehicle was registered.

8. The Tribunal clearly committed an error in not examining the Permit which was exhibited before it and merely went on the reply given during the cross examination.

9. The Reply given by the appellant merely shows that the owner of the vehicle was not aware whether any authorisation was required or not. He

was neither asked nor has he stated that he did not have a permit. He has merely exhibited the Permit. The Permit shows that there was a valid National Permit available at the time of the accident. The permit was duly proved and exhibited before the Tribunal and clearly the Tribunal committed an error in not noticing the said permit.

10. In view of the above error the award of the Tribunal in so far as it grants recovery rights to the insurance company against the appellant cannot be sustained.

11. The award to the limited extent that it grants recovery rights to the insurance company against the appellant is set aside. Since there is no challenge to the remaining part of the award, the same is not being commented upon. The amount deposited by the petitioner is directed to be refunded.

12. The appeal is allowed in the above terms.

SANJEEV SACHDEVA, J.

DECEMBER 2, 2021/rk