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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **MAC.APP. 179/2024 & CM APPL. 17975/2024 & 17976/2024**
PRAVEEN JAINAppellant
Through: **Mr. Shrey Chathly, Advocate.**

Versus

DEEPAK KUMAR & ORS.Respondents
Through: **Mrs. Kanchan Kaur and Mr. Dhodi,**
Advocates for R-3.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

% **ORDER**
27.11.2024

1. The present Appeal under *Section 173* of the *Motor Vehicles Act, 1988* has been filed, against the Award dated 15.05.2023, by the Appellant/Owner against whom the Recovery Rights have been given to the Insurance Company/Respondent No.3, since the driving license of the driver/Respondent No.2 Sh. Taarif was found to be fake.
2. It is submitted in the Appeal that the Written Statement was filed on behalf of the Appellant wherein he had not only denied the factum of accident but had also stated that at the time of appointment of the driver, the Appellant had checked the Driving License and had also taken the driving test of Respondent No.2. It is further submitted that unfortunately during the trial, the owner failed to appear as a witness in support of his defence.
3. A prayer is made that the impugned Order be set aside and an opportunity be given to the Appellant to lead his defence in regard to



the Recovery Rights.

4. Learned counsel on behalf of the Insurance Company/Respondent No.3 submits that despite having taken a defence in the Written Statement, the Appellant chose not to appear before the Court or lead the evidence. The Insurance Company on the other hand, has adduced cogent evidence to prove that the driving license of the driver was fake. There is no merit in the Appeal and is liable to be dismissed.

5. **Submissions Heard.**

6. Considering that the specific defence of having taken due care and caution was pleaded in the Written Statement by the owner, the impugned Award is set aside to the extent of Recovery Rights granted against the Appellant. The case is remanded back on the limited aspect of whether the Insurance Company is entitled to Recovery Rights against the Appellant.

7. The parties are directed to appear before the learned Tribunal on 09.12.2024.

8. The Appeal is partly allowed.

NEENA BANSAL KRISHNA, J

NOVEMBER 27, 2024

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