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

% ***Date of decision: 28th November, 2024***

+ **MAC.APP. 950/2018, CM APPL. 44649/2018**

M/S HIGHWAY TRAVELS

.....Appellant

Through: Mr. S.N. Parashar, Advocate.

versus

**PRADEEP KUMAR SHARMA & ORS (ORIENTAL INSURANCE
CO LTD)**

.....Respondent

Through: Appearance not given.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

**CM APPL. 44648/2018 (under Section 5 of the Indian Limitation Act on
behalf of the Appellant for Condonation of 306 days Delay in filing the
Appeal)**

1. An Application has been filed on behalf of the Appellant for Condonation of delay of 306 days in filing the Appeal.
2. For the reasons stated in the Application, the delay of 306 days in filing the Appeal is condoned.
3. The Application is allowed and is disposed of accordingly.

MAC.APP. 950/2018

4. An Appeal under Section 173 of the Motor Vehicles Act, 1988 has been filed for setting aside the Impugned Award dated 30.08.2017 and Review Order dated 06.10.2017 vide which the Recovery Rights have been



granted against the Appellant/Owner of the offending vehicle.

5. Learned counsel on behalf of the Appellant submits that the Appellant was having a valid Driving License for driving the Bus which was valid from 23.07.2010 till 22.12.2016. The Verification Report showing the License to be valid had also been submitted by the Transport Authority, Nagaland. However, the learned Tribunal held the License to be not valid on account of the Notification dated 01.08.2014 issued by the Transport Authority, Nagaland that unless the Smart Licenses are obtained, the earlier Licenses shall be held to be invalid. It is submitted that the Report and the License clearly reflects that the Driver was holding a valid Driving License and the findings of the learned Tribunal about Driving License not been valid, is liable to be set aside.

6. *Learned Counsel on behalf of the Insurance Company* on the other hand, has contended that the learned Tribunal in the light of the Notification of the Transport Authority, Nagaland has rightly found the Driving License of the Driver to be invalid. There is no interference warranted in the impugned Award.

7. **Submissions heard.**

8. It is not under challenge that the Driver was holding a Driving License No.44713/TV/T/2010 issued by the Transport Authority, Nagaland which was valid from 23.07.2010 to 22.12.2016. The only ground which needs consideration is whether in view of the Public Notification dated 01.08.2014, the Driving License had been issued in the name of Driver in the form of Booklet or manual format, is to be deemed to be invalid as it was not converted into the Smart Card.

9. The Notification dated 01.08.2014 required that henceforth the



Licenses be issued through National Software 'SARATHI' from 30.10.2009 in the State and the issue of Driving License on Booklet be de-continued after the Smart Card are introduced. Therefore, in order to authenticate the Driving Licenses it was notified that all the Driving License Holders having Booklet or manual format other than Smart Card, must report to the Authority and get them digitized and get the Smart Card issued. It was further notified that this may be completed before 01.12.2014, after which the Driving Licenses other than the Smart Card shall be treated as cancelled.

10. From the Notification and the contents thereof it is evident that the State Transport Authority decided to discontinue the Driving Licenses on manual format on account of detection of large number of fake driving licenses.

11. In the present case, there is no evidence which has been brought on record to show that this Driving License was fake or not genuine. The only ground for holding it invalid is that it was not converted into a Smart Card. It may be a State Policy to ensure that no fake licenses continue to be circulated amongst the public, but the very fact that there was a valid Driving License issued in the year 2010 which was valid till 2016 i.e. at the time of the accident which took place on 07.10.2014 it cannot be said that the driver was not having a valid Driving License. The format may not have been as notified, but that does not take away the skill or the validity of the Driving License. It may also be noted that the Circular had been issued in August, 2014 and the directions were to get the Smart Card format made for the Driving Licenses before 01.12.2014. The accident had taken place on 07.10.2014.

12. Considering the Driving License and the Notification, it is hereby



concluded that the Driver was having a valid Driving License at the time of accident. The impugned Order granting the recovery Rights against the Driver is hereby, set aside and the impugned Order is accordingly modified. The Insurance Company is held liable to pay the compensation amount with no Recovery Rights against the Driver/Owner.

13. The Appeal is accordingly disposed of along with the pending application(s), if any.

14. The Statutory amount be refunded in accordance with law.

**(NEENA BANSAL KRISHNA)
JUDGE**

NOVEMBER 28, 2024

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