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

\# **CNR No. DLHC011199612013**

\+ MAC.APP. 735/2013

THE NEW INDIA ASSURANCE CO LTD .....Appellant

Through: Mr. J.P.N. Shahi & Mr. Shikhar Prakash, Advs.

versus

SH VINOD KUMAR & ORS .....Respondents

Through: None

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

O R D E R

% 05.10.2026

1. The matter has been fixed before this Court by the Registrar pursuant to order of the Joint Registrar (Judicial) allowing impleadment of LRs of deceased respondent no.1.

2. This appeal has been filed assailing award dated 1st June 2013 passed by Motor Accident Claims Tribunal, Dwarka Court ['***MACT/Tribunal***'], whereby compensation of Rs. 6,77,588/- along with interest @ 7.5% per annum was awarded.

3. Insurance company is impugning the award seeking recovery rights, since the offending vehicle had no valid permit to ply in Delhi.

4. The accident in question occurred on 27.08.2012 at about 6:30 a.m., when *Smt. Laxmi* was travelling with her son, *Shri Vinod Kumar*, on his motorcycle from their residence to Matiala, Uttam Nagar. At Najafgarh Road,

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opposite Metro Pillar No. 658, Uttam Nagar, the offending truck bearing registration no. PB-07-AE-9629, allegedly driven rashly and negligently at a high speed, hit their motorcycle from behind. As a result, *Smt. Laxmi* sustained fatal injuries, while *Shri Vinod Kumar* suffered grievous injuries.

5. A perusal of order sheets would show that notices were issued to respondent no. 4 and 5. However, the Joint Registrar had noted on 30th April 2014 that there was no appearance on behalf of respondent nos. 4 and 5 despite service.

6. Accordingly, since no one has appeared for respondent no.4 and 5/ driver and owner in the matter, they are proceeded *ex parte*.

7. *Mr. Shahi* contends that the offending vehicle did not have a valid permit to ply in Delhi, constituting a wilful breach of the policy conditions within the meaning of Section 149(2)(a)(i) of the Motor Vehicles Act, 1988 ['***MV Act***']. However, no recovery rights were granted to the Insurance Company by the MACT.

8. This Court has perused the impugned award and notes that the MACT had recorded that the offending vehicle was plying in Delhi without a valid permit at the time of the accident. However, despite the said finding, no recovery rights were granted to the Insurance Company.

9. In ***Oriental Insurance Company Ltd. v. Rajwati & Ors.*** 2026:DHC:1964, this Court dealt with a similar case where the offending vehicle did not have a valid permit at the time of the accident, and the owner had failed to produce the permit despite service of notice under Order XII Rule 8 of the Code of Civil Procedure, 1908; the MACT awarded recovery rights to the offending vehicle and upheld the award. This Court relied upon

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the judgment of the Supreme Court in ***National Insurance Co. Ltd. v. Challa Upendra Rao & Ors.*** (2004) 8 SCC 517, wherein it was held that even where a breach of the policy conditions by the insured is established, and a statutory defence under Section 149 of MV Act is available to the insurer, the insurer may nevertheless be directed to satisfy the award in the first instance, having regard to the beneficial object of the Act.

10. The Court further relied upon the judgment of the Supreme Court in ***Amrit Paul Singh & Anr. v. TATA AIG General Insurance Co. Ltd. & Ors***. (2018) 7 SCC 558, wherein the Supreme Court also considered a similar case where the offending vehicle was being plied without a valid permit and directed the insurer to satisfy the award in the first instance, with liberty to recover the amount from the owner.

11. In view of the aforesaid decisions and the finding of the MACT that the offending vehicle was being plied without a valid permit in *Delhi* at the time of the accident, *recovery rights* are granted to the Insurance Company against the owner/driver of the offending vehicle.

12. *Vide* order dated 13th August, 2013, upon deposit of the compensation amount by the Insurance Company, 80% thereof was directed to be released to the claimants. Accordingly, the balance compensation amount be released to the claimants in terms of the directions contained in impugned award.

13. Accordingly, the appeal is allowed. Pending applications are rendered infructuous.

14. Statutory deposit, if any, be refunded to the Insurance Company only if the order of deposit has been complied with.

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15. Copy of this judgment be sent to the concerned MACT/bank for information and necessary compliance.

16. Judgment be uploaded on the website of this Court.

ANISH DAYAL, J

OCTOBER 5, 2026/sm

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