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

\+ MAC.APP. 175/2015&CM APPL. 3065/2015

RELIANCE GENERAL INSURANCE CO LTD .....Appellant

Through: Mr. Rajeev M. Roy, Mr. P. Srinivasan, Advocates.

versus

MEEAN KATIYAR & ORS .....Respondent

Through: Mr. Amit Kumar, Advocate for R-1 to R-4
Mr. Siddharth Mittal, Mr. Abhijeet Varsheny & Ms. Shilpa G Mittal, Advs. for R-5

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

O R D E R

% 30.01.2026

1. Pursuant to previous order dated 28th January 2026, counsel for appellant has raised two main arguments:

i) ***First*** is the issue of contributory negligence, it is contended that at least 50% ought to have attributed to the deceased, who was driving his car behind the tractor-trolley and rammed into it on 15th August 2010. In this regard, reliance is placed on the testimony of **PW-3** [*Vinod Chand Katiyar*, brother-in-law of deceased], who was an eyewitness to the incident and deposed that while he was following the car driven by deceased, a tractor-trolley *laden with bricks* was moving at a speed of *50-60 kmph* and suddenly applied breaks to take a turn, as a result of which the vehicle of the deceased collided with the tractor-trolley.

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Counsel therefore submits that if a tractor-trolley, that too driving on *National Highway-8*, where the accident took place, travelling at a speed of *50-60 kmph*, any collision from the rear by the car of the deceased would impute contributory negligence to the deceased. He relies upon decision of the Supreme Court in ***Nishan Singh & Ors. v. Oriental Insurance Co. Ltd,*** (2018) 6 SCC 765, particularly *paragraph no.12* thereof. He further submits that there was no issue of visibility, since the accident took place between 6:30 A.M. to 7:00 A.M.

ii) ***Second*** is the issue raised by counsel for appellant pertains to rights of recovery against the driver and owner on two counts:

- *first* being that the driving licence of the driver was fake, since as per evidence placed on record by **PW-1** [*Meena Katiyar, wife of the deceased*], who was a clerk from the Licensing Authority, Farukhabad, Uttar Pradesh (**'U.P'**), there was no record of the said driving licence. Counsel for respondent/driver-owner, however, submits that the cross-examination of **PW-1** clearly shows that no original driving licence record was available and, in fact, adverts to the communication dated 14th November 2013, addressed by the Licensing Authority, Farukhabad, U.P to the MACT, stating that various driving licences had been lost and that **FIR No. 334/2013** dated 24th October 2013 under *Section 409* of the Indian Penal Code 1860, had been registered. He therefore contends that no evidence has been produced by the Insurance Company to establish that the driving license was fake. He further states that no issue was framed in this regard by the MACT, since no specific plea was raised in the written statement and only general averments were made with respect to the terms of the Insurance Policy.

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- On the *second* count, counsel raises the issue of trolley being attached to the tractor in breach of terms and conditions of the Insurance Policy, since the policy insured only the tractor and not the trolley, and the tractor was insured only for agricultural purposes. Reliance in this regard is placed on ***Oriental Insurance Co. v. Brij Mohan*** (2007) 7 SCC 56, wherein it was argued that the trolley was not insured and that levelling the field with earth was not an agricultural activity, and therefore, the insurance terms would not apply. He therefore submits that in the present case, the trolley was carrying bricks, which is evident from testimony of **PW-3**.

2. In response, counsel for respondent/driver-owner has relied upon decision of the Supreme Court in ***Fahim Ahmed & Ors. v. United India Insurance Co.*** (2014) 14 SCC 148, which deals with a situation where trailer was carrying sand and notes in *paragraph 6* that no issue was framed nor any evidence led to prove that the tractor was being used for commercial purpose. Notably, in ***Fahim Ahmed*** (*supra*) the Supreme Court notes the decision in ***National Insurance Co. v. Chinnamma & Ors.*** (2004) 8 SCC 697, which was relied upon in ***Brij Mohan*** (*supra*).

3. Counsels for parties shall complete their arguments on the next date and shall file a *three-page* note of submissions, synopsizing their arguments they have addressed, along with cross-referencing *PDF pages* of the Court File, including the LCR.

4. List on 6th February 2026 in the '*Supplementary List*'.

5. Order be uploaded on the website of this Court.

ANISH DAYAL, J

JANUARY 30, 2026/sm/tk

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