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

+ **MAC.APP. 594/2024**

M/S NATIONAL INSURANCE CO. LTD.Appellant

Through: **Ms. Rakhi Dubey, Advocate.**

versus

SMT FIRDAUSH & ORS.Respondents

Through: **Ms. Santwana Agarwal, Mr. Viswajeet Tiwari & Ms. Saumya Agarwal, Advocates for R-4.**

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

% **20.11.2024**

CM APPL. 67439/2024 (Exemption)

1. Allowed, subject to all just exceptions.
2. The Application is disposed of.

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3. The present Appeal under *Section 173 of the Motor Vehicles Act, 1988* has been filed on behalf of the Appellant-Insurance Company against the Judgment dated 28.08.2024 seeking recovery rights from the actual owner-cum-driver who at the time of accident was not holding a valid Driving Licence.
4. It is also claimed on behalf of the Appellant-Insurance Company that the deceased was not wearing a helmet and there was a contributory negligence on his part which must be accounted while calculating the



compensation.

5. Issue notice.

6. Ms. Santwana Agarwal, learned counsel appearing on advance notice, accepts notice on behalf of the Respondent No. 4, the registered owner, and submits that there is no infirmity in the Judgment dated 28.08.2024 so far as the recovery rights against the registered owner have been denied to the Appellant-Insurance Company.

7. On taking steps, let notice be served upon the Respondent Nos. 1 to 3 through ordinary and electronic modes.

8. List on 11.03.2025.

9. In the interim, the e-Trial Court Record be requisitioned before the next date of hearing.

CM APPL. 67438/2024

10. The present Application under *Order XLI Rule 5 read with Section 151 of the Code of Civil Procedure, 1908* has been filed on behalf of the Appellant-Insurance Company seeking stay of the Judgment dated 28.08.2024.

11. Considering the grounds and reasons stated in the present Application, the operation of the impugned Judgment dated 28.08.2024 is hereby stayed, subject to deposit of entire compensation amount before the learned Tribunal within four weeks by the Appellant-Insurance Company.

12. List on 11.03.2025.

NEENA BANSAL KRISHNA, J

NOVEMBER 20, 2024

S.Sharma