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IN THE HIGH COURT OF DELHI AT NEW DELHI

+ MAC.APP.No.125/2009

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Date of decision: 26th October, 2009

JITENDER SHARMA @ YATENDER

KUMAR SHARMA

..... Appellant

Through : Mr. J.P.N. Shahi, Adv.

versus

SANJAY GUPTA & ORS.

..... Respondents

Through : Ms. Neerja Sachdeva, Adv.
for R-3.

CORAM :-

THE HON'BLE MR. JUSTICE J.R. MIDHA

1. Whether Reporters of Local papers may be allowed to see the Judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

JUDGMENT (Oral)

1. The appellant has challenged the award of the learned Tribunal whereby his claim petition was dismissed by the learned Tribunal.

2. The accident dated 4th December, 2004 resulted in grievous injuries to the appellant who filed the claim petition before the learned Tribunal. The learned Tribunal framed issues on 26th July, 2007 and fixed the case for recording of the appellant's evidence on 6th December, 2007, 27th March, 2008 and 20th October, 2008. However, since no witness was present on behalf of the appellant, the learned Tribunal closed the appellant's evidence

and dismissed the claim petition.

3. The learned counsel for the appellant submits that the appellant had changed his address without intimating his counsel and, therefore, the counsel could not contact the appellant who could not appear before the learned Tribunal for evidence.

4. The learned Tribunal for the respondent submits that no further opportunity should be granted to the appellant to lead evidence. In the alternative, it is submitted that the appellant should not be entitled to claim interest for the period during which the appellant could not lead evidence.

5. This case relates to the grievous injuries suffered by the appellant and learned counsel for the appellant submits that the bills are totaling more than Rs.2,00,000/-. There is no material on record to show that the respondent conducted the investigation in accordance with their manual and computed and offered the compensation to the appellant. It has time and again been noticed that Insurance Companies do not conduct the investigation in terms of the claim procedural manual and do not offer the compensation in accordance with law to the claimants. In that view of the matter, the plea of the learned counsel for the respondent is not accepted.

6. The appeal is allowed. The impugned award is set aside. The case is remanded back to the Claims Tribunal for fresh inquiry in accordance with law.

7. The parties are directed to appear before the learned Tribunal on 2nd December, 2009.

8. The appellant shall examine himself on the said date and file the list of witnesses and application for summoning other witnesses on the said date. If the appellant fails to lead evidence in terms of this order, the learned Tribunal shall proceed to complete the inquiry in accordance with law.
9. The LCR be requisitioned before the next date of hearing.
10. Copy of this order be given 'Dasti' to learned counsel for the parties under the signature of Court Master.

J.R. MIDHA, J

OCTOBER 26, 2009

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