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IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CM (M) No.633/2009

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Date of decision: 24th August, 2009

ANITA & ORS. Petitioners
Through : Mr. Anshuman Bal, Adv.

versus

BIJENDER & ORS. Respondents
Through : Ms. Manjusha Wadhwa and
Ms. Harsh Lata, Advs.

**CORAM :-
THE HON'BLE MR. JUSTICE J.R. MIDHA**

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

JUDGMENT (Oral)

CM(M) No.633/2009

1. Issue notice to the respondents.
2. Ms. Manjusha Wadhwa, Advocate accepts notice on behalf of respondents.
3. The petitioners have challenged the order dated 17th April, 2009 passed by the learned Tribunal whereby the learned Tribunal has rejected the affidavit of the witness produced by the claimants. The learned Tribunal has further ordered that the affidavit be struck off. The learned Tribunal has further ordered that the claimants shall not be entitled to any interest for the future period and last opportunity has been granted to the

claimants to produce the entire evidence.

4. Under Section 168 of the Motor Vehicles Act, the Motor Accident Claims Tribunal has to conduct an inquiry. The learned Tribunal can formulate such summary procedure as it thinks fit under Section 169 of the Motor Vehicles Act. It has been time and again observed by this Court that the inquiry under Section 169 of the Motor Vehicles Act is not to be treated as a civil trial. The duty is cast on the learned Tribunal considering that most of the victims of the road accident belong from the poor strata of the society and are not in a position to prosecute their case and they also do not have perfect legal assistance. Reference in this regard may be made to the recent judgment of this Court in **Somari Devi vs. Ragwar Singh, MAC.APP.No.884/2003 decided on 22nd May, 2009.**

5. The impugned order is not in conformity with the Section 168 and 169 of the Motor Vehicles Act. If the learned Tribunal was not satisfied with the statement of the witness, the statement ought to have been completed and the learned Tribunal may not have relied upon it at the final stage.

6. The observation of the learned Tribunal that the claimants shall not be entitled to interest is also not in accordance with law. The compensation in a road accident becomes due immediately upon the death and the insurance companies cannot take the benefit of any delay in the conclusion of the claim petition more so when it is the duty of the learned Tribunal to conduct an inquiry and not just wait for the claimants to prove the case like

in a ordinary civil trial.

7. The petition is allowed. The impugned order dated 17th April, 2009 is set aside. The learned Tribunal is directed to conduct an inquiry in terms of Section 168/169 of the Motor Vehicles Act and Delhi Motor Accident Claims Tribunals Rules, 2008 and the directions passed by this Court in **Somari Devi (supra)**. The Investigating Officer of the police is directed to file Accident Information Report under 158(6) of the Motor Vehicles Act to produce the eye-witnesses before the Tribunal.

8. The parties are directed to appear before the learned Tribunal on 10th September, 2009.

9. Copy of this order be given 'Dasti' to learned counsel for both the parties under the signature of Court Master.

AUGUST 24, 2009
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J.R. MIDHA, J