

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

Date of Decision: 6th November, 2012

+ **CM(M) 835/2012**

SUKHDARSHAN JINDAL

..... Petitioner

Through: Mr.H.G.R.Khattar, Advocates

versus

THE ORIENTAL INSURANCE CO.LTD. & ORS. Respondents

Through: Mr.R.B.Shami, Advocate for R-1

CORAM:

HON'BLE MR. JUSTICE G.P.MITTAL

J U D G M E N T

CM(M) 835/2012

1. The Petitioner is aggrieved by the order dated 02.06.2012 passed by the by the Motor Accident Claims Tribunal (the Claims Tribunal) whereby his Application dated 25.04.2012 for release of amount of ₹ 1,00,000/- in the name of the Petitioner, that is, the owner of the Bus No.DL-1P-PB-3927, was rejected.
2. A Division Bench of this Court in '*Court on Its Own Motion v. State & Ors.*', 2009 (107) DRJ 600 (DB) passed certain directions for protection of the victim of the motor vehicle accident. It was inter-alia directed that while ordering release of the Bus involved in the accident the owner/DTC would be asked to deposit a sum of ₹ 1,00,000/- as a minimum succor to the legal representative of the person dying in a motor vehicle accident.
3. It was directed that the said sum of ₹ 1,00,000/- is to be returned to the owner if the vehicle is found to be insured at the time of passing the final award under the Act.
4. Para 10 (XXII) of the judgment in *Court on Its Own Motion*, is extracted

hereunder:-

XXII. The Motor Accident Claims Tribunal while deciding the application filed by the next of kin of the deceased, at the time of passing award shall deduct the amount paid to the next of kin of the deceased from the amount which is found to be payable in accordance with the provisions of the Motor Vehicles Act, 1988 and also pass appropriate orders regarding the reimbursement of the amount by the Insurance Company in accordance with the law, in cases where the vehicle is insured.

5. The amount of ₹ 1,00,000/- obviously was to be refunded to the Petitioner owner of the bus, which was paid in this case by the Petitioner as is evident from the order dated 19.03.2009 passed by the Metropolitan Magistrate in the case FIR No.141/2008, PS Govindpuri.
6. The Claims Tribunal acted illegally in dismissing the Application preferred by the Petitioner by order dated 02.06.2012.
7. The impugned order is accordingly set aside. The amount of ₹ 1,00,000/- along with interest, if any, lying deposited with the Claims Tribunal shall be refunded in favour of the Petitioner.
8. The Petition is allowed in above terms.
9. Pending Applications stands disposed of.
10. Copy of the order be transmitted to the Claims Tribunal for compliance.

(G.P. MITTAL)
JUDGE

NOVEMBER 06, 2012

v