

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

Date of decision: 17th October, 2012

+ CM(M) 1152/2012

UNITED INDIA INSURANCE CO LTD

..... Petitioner

Through: Ms.Suman Bagga, Advocate

versus

SUSHILA DEVI AND ORS

..... Respondents

Through: Mrs.Avnish Ahlawat, Ms.Mazoo Sharma
& Ms.Latika Chaudhary, Advocates for
R-6 DTC.

CORAM:

HON'BLE MR. JUSTICE G.P. MITTAL

J U D G M E N T

G. P. MITTAL, J. (ORAL)

1. The Petitioner Insurance Company is aggrieved by the orders dated 02.06.2012 and 01.10.2012 passed in Suit No.178/2012 pending with the Claims Tribunal.
2. The Petitioner Insurance Company alleges that the deceased Ishwar Singh was removed to DDU Hospital on 23.09.2011 at 5.05 a.m. with the history of being found by the road side as told by B/B (the person who brought the injured to the Hospital).
3. On examination, the deceased Ishwar Singh who was admitted to the Hospital was found having history of loss of consciousness, vomiting and was smelling of Alcohol. He succumbed to the injuries. Post Mortem examination was conducted. The deceased's viscera was preserved for analysis to confirm presence of Alcohol.
4. The DAR (Detailed Accident Report) was filed before the Claims Tribunal. As per the Claims Tribunal Agreed Procedure, the Appellant

was required to make a legal offer. In the instant case, the Appellant did not make the legal offer as it doubted whether deceased Ishwar Singh died on account of the injuries suffered in the accident. The Claims Tribunal, however, was not satisfied with the reply and issued a notice to the Divisional Manager to show cause as to why an action should not be taken against him for defiance of the order passed by the Claims Tribunal.

5. This Court in *Oriental Insurance Co. Ltd. v. Asha Kalra (Smt.)*, CM (M) 749/2012 decided on 30th July, 2012 has laid down that it is for the Insurance Company to make a legal offer on the basis of the facts as analyzed by it. If the Petitioner Insurance Company for any reason refuses to make an offer or the Claimant/Claimants decline to accept the offer, the only option which is available to the Claims Tribunal is to treat the DAR as a Claim Petition permitting the parties to file their written statements and proceed with it in accordance with law.
6. The impugned orders, therefore, cannot be sustained; the same are set aside with a direction to the Claims Tribunal to treat the DAR as a Claim Petition and to proceed further in accordance with law without further wastage of any time.
7. The Petition is accordingly disposed of.
8. It is stated that the matter is to be listed tomorrow i.e. 18th October, 2012 before the Claims Tribunal. The parties are directed to appear before the Claims Tribunal on the said date.
9. Dasti under the signature of the Court Master.

(G.P. MITTAL)
JUDGE

OCTOBER 17, 2012/v