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

+ **MAC.APP. 952/2017 & CM APPL. 39087-88/2017 (delays)**

AFTAB (NOW DECEASED) THR LRS Appellants

Through: Mr. S.N. Kalra, Adv.

versus

**UMA SHANKAR SHUKLA & ANR. (THE UNITED INDIA
INSURANCE CO LTD) Respondents**

Through: Mr. Pankaj Seth & Mr. Shoumik
Mazumdar, Advs. for R-2.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% 31.10.2017

1. The appeal at hand has been filed by legal representatives of original claimant Aftab on whose accident claim case (MACT No. 95/2012) instituted on 12.03.2012, the Tribunal, by its decision dated 26.11.2014, had awarded compensation in the sum of Rs. 12,00,000/- on the basis of amicable settlement reached, for injuries sustained by him in a motor vehicular accident that had occurred on 24.12.2011 statedly involving negligent driving of motor vehicle described as truck bearing registration no. UP 64 H 0732 which was admittedly insured against third party risk with the second respondent (insurer).

2. The appeal has been filed with application (CM APPL. 39087/2017 seeking condonation of delay of 757 days and with application (CM APPL. 39088/2017) for condonation of delay in re-filing of the appeal by 152 days.

The prime contention urged in the main appeal is that the settlement was reached by the counsel representing the original claimant Aftab without authorisation.

3. The averments of the claimants themselves show that the victim (claimant) expired on 25.10.2015. Factually incorrect averments have been made in the appeal and the applications seeking condonation of delay to the effect that certain orders had been passed by the Tribunal respecting the claim after the death of the original claimant, the orders dated 06.06.2015 and 19.10.2015 being two such orders mentioned in the context. The submissions obviously cannot hold true as the death had occurred on 25.10.2015.

4. It is noted that the original claimant had not only received some amount from the FDR but also by way of subsequent applications he was allowed premature release of fixed deposit receipts in which part of the money paid as compensation was released by orders dated 06.06.2015 and 19.10.2015. There is nothing submitted on record to indicate that the claimant had any grievance against his counsel representing him at the time of passing of the impugned award on settlement.

5. Against the above backdrop, midway the hearing, the counsel Mr. S.N. Kalra, submitted in writing that, on instructions, he wanted to withdraw the appeal as the appellants are satisfied with the award of the MACT. The request seeking withdrawal of the appeal is signed by the first appellant Shabnam who is present in person. The said request in writing is taken on record.

6. The appeal and the applications filed with it are dismissed as withdrawn.

R.K.GAUBA, J

OCTOBER 31, 2017
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