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

Date of decision: 12th January, 2015

\+ **MAC. APP. No.469/2012**

NEW INDIA ASSURANCE CO. LTD.
..... Appellant
Through: Ms. Neerja Sachdeva, Advocate

Versus

RENU GUPTA & ORS. .....Respondents
Through: None

CORAM:
HON'BLE MR. JUSTICE G.P.MITTAL

JUDGMENT

G. P. MITTAL, J. (ORAL)

1. The appeal is directed against the judgment dated 09.02.2012 whereby compensation of Rs.41,000/- was awarded by the Motor Accident Claims Tribunal(the Claims Tribunal) in favour of Respondent no.1 towards damage to the victim's vehicle no.DL-3CG-8991. The offending vehicle Tata 709 bearing no.HR-46-B-2549 was the vehicle insured with the Appellant Insurance Company.

2. The learned counsel for the Appellant Insurance Company has urged that although the Claims Tribunal found the bill of Rs.72,602/- issued in

respect of repairs of the car no.DL-3CG-8991 to be not genuine, yet it assessed the compensation to be Rs.40,000/- and in addition awarded a sum of Rs.1,000/- towards toeing charges.

3. I am in agreement with the learned counsel for the Appellant that though the bill alleged to be obtained from M/s Wasim Automobiles, K-49, Fateh Nagar, Delhi was not proved. But, at the same time, the Claims Tribunal proceeded to make an assessment of the damage on the basis of photographs of the offending vehicle Tata 709 bearing no.HR-46-B-2549 and the victim's car no.DL-3CG-8991, the FIR and other documents. I have also gone through the photographs which are not in dispute. There was extensive damage on the right front side of Respondent no.1's car. The impact was so high that even the right front side of the offending vehicle which was much bigger and steady was also substantially damaged. Since it was the duty of the Claims Tribunal to assess just and reasonable compensation, the Claims Tribunal, in the absence of any evidence to prove the bills placed on record, rightly proceeded to assess the impact of the damage on the above said basis. In certain cases, the Claims Tribunal and the Court has to make guess work also to make assessment of the damages.

4. The compensation of Rs.40,000/- towards the damage to the vehicle and Rs.1,000/- towards toeing charges cannot be said to be exorbitant, excessive or unreasonable.

5. The appeal is devoid of any merit; the same is accordingly dismissed.

6. Pending applications, if any, also stand disposed of.

7. The statutory amount of Rs.25,000/- shall be refunded to the Appellant Insurance Company.

(G.P. MITTAL)
JUDGE

JANUARY 12, 2015
pst