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

Date of decision: 19th March, 2015

+ **CM(M) 487/2014**

NATIONAL INSURANCE CO. LTD. Petitioner

Through: Ms. Shantha Devi Raman, Adv.

versus

SH. MANOJ KUMAR & ORS Respondents

Through: Mr. Jatinder Kumar, Adv. for R-1 to R-3.

+ **CM(M) 488/2014**

NATIONAL INSURANCE COMPANY LTD Petitioner

Through: Ms. Shantha Devi Raman, Adv.

versus

SH. MANOJ KUMAR & ORS Respondents

Through: Mr. Jatinder Kumar, Adv. for R-1 to R-3.

CORAM:

HON'BLE MR. JUSTICE G.P.MITTAL

G. P. MITTAL, J. (ORAL)

1. These two petitions arise out of the two separate Claim Petitions being Suit no.422/13 and Suit no.424/13, arising out of a motor vehicular accident which allegedly took place on 30.04.2013.

2. My learned Predecessor Judge had recorded the Petitioner's (National Insurance Company Limited) contention in the order dated

23.05.2014. The learned counsel for the Petitioner states that at this stage it will be difficult to say whether vehicle No.DL-1LR-1262 which was insured with the Petitioner Insurance Company was involved in the accident and, therefore, the order under Section 140 of the Motor Vehicles Act, 1988 (the Act) ought to have been deferred. Paras 1,2 and 4 of the order dated 23.05.2014 passed by this Court are extracted hereunder:-

“1. Ms. Shantha Devi Raman, learned counsel for the petitioner states that vide order dated 19.05.2014, this Court stayed execution of the interim award dated 10.12.2013 till today. The issue raised by the petitioner in this petition is that the offending vehicle did not meet with the alleged accident. The informant of the FIR stated that on the date of the accident he did not note down the number of the offending vehicle. Accordingly, FIR No.87/2013 was registered against unknown person.

2. She further states that, thereafter, after two months of the accident, the informant approached the Police Station concerned and made a statement that he had noted the number of the offending vehicle on some slip which he could not produce on the date of the accident and stated that respondent no. 3 Jagdish Parihar was driving the offending vehicle on that day and due to his rash and negligent driving Surdner Singh died in the accident.

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4. Learned counsel further submits that vide communication dated 22.05.2014, Mr. Ajay Kumar Jain, Engineer, Surveyor, Loss Assessor and Investigator reported to the Manager of the petitioner Company as under:-

“There I met him and asked about the incident but he could not provide any documentary evidence which confirmed that his vehicle was involved in the said incident, I also told him that in the said incident two persons has died who were

travelling in the Car DL 5 CJ 0528. Then your vehicle was also damaged in the said incident, so you got repaired your vehicle, so please provide repairing bill of his vehicle but he could not provided. I also inquired why you are present on the spot early in the morning because you are living in Karawal Nagar, but he also not provided any satisfactory answer for the presence on the spot.

Then I told please provide all the information about the incident but he refused to give and told that it will be provided in the court only.”

3. Learned counsel for the Respondents states that without admitting the averments made by the Petitioner, the Respondents (the Claimants) have no objection to deferring of the order under Section 140 of the Act and an appropriate direction may be issued for the Claims Tribunal for the expeditious disposal of the Claim Petitions.
4. In view of the contention raised and the statement made by the learned counsel for the Respondents (the Claimants), order dated 23.05.2014 passed by my learned Predecessor under Section 140 of the Act is set aside.
5. The Respondents (the Claimants) shall be entitled to request the Claims Tribunal to pass an order under Section 140 of the Act after recording the entire evidence of the Respondents (the Claimants), who are the Petitioners before the Claims Tribunal.
6. Both the Petitions are allowed in above terms.

7. The Claims Tribunal is directed to dispose of the Claim Petitions expeditiously and in any case within a period of six months from the date of hearing.
8. Parties are directed to appear before the Claims Tribunal on 04.04.2015, which is stated to be the next date fixed by the Claims Tribunal.
9. Trial Court record be returned immediately through special messenger.
10. Pending applications, if any, also stand disposed of.
11. *Dasti* to the counsel for the parties.

(G.P. MITTAL)
JUDGE

MARCH 19, 2015
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