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

Date of Decision: 4th April, 2016

\+ **MAC.APP. 148/2013**

RELIANCE GENERAL INSURANCE CO. LTD. ..... Appellant
Through: Mr. A.K. Soni, Adv.

versus

MASTER ROHIT & ORS ..... Respondents
Through: Mr. Sanjeev Srivastava, Adv. for R-1.

CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT

R.K.GAUBA, J (ORAL):

1. By judgment dated 31.10.2012, the motor accident claims tribunal (tribunal) decided accident claim case preferred for and on behalf of first respondent (registered as Suit No. 01/2012) for compensation for injuries suffered by him in a motor vehicular accident that is stated to have occurred at about 1.00 p.m. on 14.12.2011 allegedly on account of rash driving of the car bearing registration No. DL 9CS 4243. The tribunal concluded that the accident had occurred due to negligent driving of the car and, thus, granted compensation under Section 166 of Motor Vehicles Act, 1988 (MV Act) assessing it at ₹ 2,95,000/- adding the component of interest, directing the insurer to pay.

2. The main contention urged by the insurance company in the appeal at hand is that no evidence was adduced to prove the involvement of the car or

negligence on the part of its driver and the conclusion was drawn only on the basis of documents relating to the corresponding criminal case investigated into by the police. The counsel also contends that quantum of compensation is unduly high.

3. The counsel for the claimant fairly conceded that no evidence having been brought to prove the involvement of the car or negligence on the part of its driver, the compensation could not have been allowed under Section 166 MV Act as a *sine qua non*. While conceding that appeal may be allowed, he submitted that since the evidence was not furnished under some improper legal advice, opportunity may now be granted.

4. The appeal is thus allowed. The impugned judgment is set aside. The tribunal is directed to hold further inquiry during which the claimant shall be obliged to lead proper evidence to prove the involvement of the car and negligence on the part of its driver.

5. The parties shall appear before the tribunal on 3rd May, 2016.

6. It is noted that when the appeal was entertained by order dated 15.02.2013 , the insurer had been directed to deposit the entire awarded amount with UCO Bank, Delhi High Court Branch, out of which 75% was allowed to be released to the claimant (first respondent), the balance having been kept in fixed deposit receipt. The tribunal had directed in (para 11 of) the impugned judgment an amount of ₹ 2,00,000/- to be kept in fixed deposit receipt for a period of ten years releasing the balance (95,000/-) for immediate needs of the claimant. Thus, a substantial portion of the amount allowed to be released (by order dated 15.2.2013) would still be lying in fixed deposit receipt, though in the name of the claimant. The Registrar

General shall take necessary steps for refund of the entire said amount to the insurance company. The amount already released and made available for immediate use of the claimant though shall be liable to be adjusted against the award or subject to judgment that may be finally passed in the further inquiry that is remitted.

7. Statutory deposit, if made, shall be refunded.

8. The appeal is disposed of in above terms.

R.K. GAUBA
(JUDGE)

APRIL 04, 2016
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