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

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Date of Decision: 28th November, 2016

+ **FAO 101/2013**

NEW INDIA ASSURANCE CO. LTD.

..... Appellant

Through: Mr.P. Acharya, Advocate for
Mr.Sameer Nandwani, Advocate

Versus

ABID ALI & ORS.

..... Respondents

Through: Ms.Pratima N. Chauhan, Advocate
for respondents no.1 to 3

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

1. The appellant has challenged the order of the Commissioner, Employees Compensation whereby compensation of Rs.4,50,440/- has been awarded to respondents no.1 to 3.

2. On 5th June, 2003, Wajid Ali was employed as a cleaner on vehicle no.UP-21L-9711 when he fell down while boarding the truck after checking the tyres and was crushed under the wheel. The deceased was survived by his parents and minor sister who filed the application for compensation before the Commissioner, Employees Compensation.

3. The appellant contested the claim petition on various grounds inter alia of delay of more than 4 years in filing the claim petition. It is further submitted that even if the condonation of delay is upheld, the interest for the delayed period should not have been awarded. It is

further submitted that there is inconsistency in the FIR and the application filed before the Commissioner, Employees Compensation.

4. Learned counsel for respondents no.1 to 3 submits that respondents no.1 to 3 could not file the application within limitation for due to extreme poverty. It is submitted that respondents no.1 to 3 filed an application for condonation of delay. However, the Commissioner did not take note of the delay because of the compensation under the Employees Compensation Act is required to be deposited with the Commissioner, Employees Compensation even without filing of the claim. It is further submitted that the appellant has deposited the compensation with the Commissioner, Employees Compensation which has already been disbursed to respondents no.1 to 3.

5. There is no infirmity in the Commissioner, Employees' Compensation awarded compensation to claimants/respondents no.1 to 3 who could not file the claim petition within limitation on ground of extreme poverty. There is no infirmity in the Commissioner, Employees Compensation awarding the interest for the delayed period as admittedly the compensation amount remained with the appellant for the delayed period on which they would have earned the interest. Even otherwise, no substantial question of law arises for consideration.

6. The appeal is dismissed.

NOVEMBER 28, 2016
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J.R. MIDHA, J.