

\$~R-9, 10, 11 & 15

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

(i) + **MAC.APP. 320/2009**

KULWANT SINGH & ANR. Appellants
Through Mr. Mukul Dhawan, Advocate

Versus

RAMA DEVI & ORS. Respondents
Through Mr. Zahid Ali, Advocate for Mr.
A.K.De, Advocate for Respondent
No.4

(ii) + **MAC.APP. 325/2009**

KULWANT SINGH & ANR. Appellants
Through Mr. Mukul Dhawan, Advocate

Versus

KAMLESH & ORS. Respondents
Through Mr. Zahid Ali, Advocate for Mr.
A.K.De, Advocate for Respondent
No.4

(iii) + **MAC.APP. 326/2009**

KULWANT SINGH & ANR. Appellants
Through Mr. Mukul Dhawan, Advocate

Versus

INDERPAL SINGH & ORS. Respondents
Through Mr. Zahid Ali, Advocate for Mr.
A.K.De, Advocate for Respondent
No.4

(iv) + **MAC.APP. 337/2009**

KULWANT SINGH & ANR. Appellants
Through Mr. Mukul Dhawan, Advocate

Versus

MANDA & ORS.

..... Respondents
Through Mr. Zahid Ali, Advocate for Mr.
A.K.De, Advocate for Respondent
No.4

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
23.11.2016

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The above captioned four appeals are directed against common impugned Award of 21st October, 2008 vide which compensation to the legal heirs of four deceased has been awarded. Appellants in these four appeals are the driver and owner of the mini bus, who have been held to be negligent in causing the accident in question. With the consent of learned counsel for the parties, the above captioned four appeals are taken up for hearing together as they are directed against the common impugned Award and so, these four appeals are being disposed of by this order.

The facts are not in dispute and so they are not required to be reproduced herein. Suffice it would be to note that in a road accident on 11th November, 2005 at about 4:30 a.m. a Tata Qualis vehicle had collided with a mini bus driven by appellant-driver on Delhi-Chandigarh highway. In this unfortunate accident, there were four casualties. The driver of the Qualis and the three passengers travelling in it had died. Learned Tribunal after recording the evidence has granted compensation to the legal heirs of the four deceased. Before the Tribunal, appellant-driver had relied upon the closure report filed in the criminal case to claim that the driver of the mini bus in question has been already

exonerated in the criminal case and so the negligence was not of appellant-driver but was of the driver of Qualis, who had unfortunately died in this accident.

At the hearing of these appeals, learned counsel for appellants had submitted that in view of the closure report filed in the criminal case, the liability to pay the compensation would be of the owner of the Qualis and not of appellants. To submit so, attention of this Court is drawn to the closure report and it is submitted that impugned Award be modified to the extent that liability to pay the awarded compensation be fastened upon the owner of the Qualis and not upon the appellants. Nothing else is urged by learned counsel for appellants.

Learned counsel for respondent-insurer supports the impugned Award and points out that closure report has rightly not been relied upon by learned Tribunal because in the site plan of spot annexed with the closure report, vehicle of the appellant-driver has not been shown and the vehicle shown therein is Qualis, whose driver had died in this accident. Thus, it is submitted that these appeals deserve dismissal.

Upon hearing and on perusal of impugned Award and the evidence on record, I find that in a case like the instant one, where the site plan of the spot is found to be incomplete, the evidence of Investigating Officer of the criminal case is essential. Learned Tribunal is right in concluding that in absence of evidence of Investigating Officer, it cannot be brought out as to why the mini bus was not shown in the site plan of spot. On the basis of evidence on record, this Court is of the considered view that the closure report filed in the criminal case has been rightly discarded by learned Tribunal and on the basis of evidence recorded, a reasonable

compensation has been granted to the respondents-claimants.

Consequently, finding no substance in these appeals, they are dismissed. While entertaining these appeals, appellants were directed to deposit the awarded amount. Learned counsel for appellants submits that out of the deposited amount, some of the amount has been already released to the respondents-claimants. Thus, it is directed that the impugned Award be promptly complied within four weeks.

With aforesaid directions, these four appeals are disposed of.

(SUNIL GAUR)
JUDGE

NOVEMBER 23, 2016

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