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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 24th October, 2016

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MAC.APP. 838/2012

MANU @ MONICA

..... Appellant

Through: Mr. Anshuman Bal, Adv.

versus

SATISH KUMAR & ANR

..... Respondents

Through: Mr. J.P.N. Shahi, Adv. for R2.

CORAM:

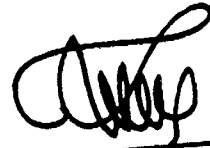
HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT

1. The appellant has challenged the award of the Claims Tribunal whereby her claim petition has been dismissed.
2. On 21st June, 2010, the appellant was travelling in car bearing No. DL-8CH 2364 while going from Delhi to Dehradun. When the car reached T-Point, Dehradun Road, Fatehpur, U.P., it hit against a stationary truck which resulted in grievous injuries to the appellant. The Claim Tribunal dismissed the claim petition on the ground that the entire negligence was of the stationary truck and there was no negligence on the part of the driver of the car.
3. The Claims Tribunal relied upon the statement of the appellant and the DD entry. However, the Claims Tribunal failed to appreciate that the statement of the witnesses and the documents

placed before the Court have to pass the test of judicial belief under Section 3 of Evidence Act in order to be treated as proof. Reference be made to *Ved Prakash Kharbanda v. Vimal Bindal*, (2013) 198 DLT 555 in which this Court has discussed the principles relating to the term “proved” in Section 3 of the Indian Evidence Act. This Court also discussed the meaning of truth and how to discover it.

4. This Court is of the view that the entire negligence cannot be attributed to the stationary truck. This is a clear case of contributory negligence.
5. The appeal is allowed and the impugned award is set aside. The case is remanded back to the Claims Tribunal for fresh inquiry into the claim. The Claims Tribunal shall determine the extent of contributory negligence as well as the amount of compensation payable to the appellant in accordance with law.
6. The parties shall appear before the Claims Tribunal on 06th December, 2016.
7. Trial Court record be returned back forthwith.
8. Copy of this judgment be given *dasti* to learned counsels for the parties under signature of Court Master.



J.R. MIDHA, J.

OCTOBER 24th October, 2016
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