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

+ CM(M) 319/2016 & CM Nos.12442-12443/2016

THE ORIENTAL INSURANCE CO LTD

..... Petitioner

Through Mr. A K Soni, Adv.

versus

LILA DHAR SUVEDI & ORS

..... Respondent

Through None

+ CM(M) 320/2016 & CM Nos.12446-12447/2016

THE ORIENTAL INSURANCE CO LTD

..... Petitioner

Through Mr. A K Soni, Adv.

versus

RAJBIR & ORS

..... Respondent

Through None

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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04.04.2016

1. Both these petitions seek to assail the order dated 30.03.2016 commonly passed by the motor accident claims tribunal (tribunal) on the files of two accident claims cases registered as suit No.26/11/08 (*Lila Dhar v. Prakash Singh*) and suit No.631/11/08 (*Rajbir v. OIC*), apparently being inquired into together. By the said order, the presiding officer of the tribunal has issued bailable warrants in the sum of Rs.500/- against the General

Manager of Oriental Insurance Company (appellant) to be executed through Commissioner of Police, Delhi for 05.04.2016, referring to default on the part of the said functionary in compliance with the directions in the order dated 19.03.2016.

2. It appears the tribunal felt the need to examine the issue relating to the status of owner of the offending vehicle and the enforceability of the indemnity clause under the insurance policy in that light, on the basis, *inter alia*, of the report of the investigator engaged by the insurance company and the record produced by the motor licensing authority. It is against such background that a notice had been earlier issued, *inter alia*, to the General Manager, Oriental Insurance Company to appear and explain to the tribunal "*as to why the company is misleading the court for the last eight years*".

3. The grievance of the petitioner in these cases is that the direction for the General Manager of the Oriental Insurance Co. to appear in person and explain the position of the company was uncalled for. It is submitted that the Deputy Manager (Mr. M K Sharma) had appeared before the tribunal on 30.03.2016 but his presence was not even taken cognizance of. It is further submitted that the company was duly represented and ready and willing to explain its position further and that the impression taken that the company was trying to "*mislead*" was not correct.

4. In the facts and circumstances, where it is only the direction for the issuance of duress processes against the senior-most executive officer of the company is being challenged, there is no need for issuance of notice to any of the respondents inasmuch as it is a matter between the tribunal and the party affected.

5. The direction for the General Manager to appear against the

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aforementioned backdrop seems to be a little unduly hurried and uncalled for. The company was duly represented before the tribunal as the impugned order itself shows the presence through counsel (Mr. R N Sharma, Advocate). Instead of insisting on personal presence of the senior most functionary of the company, the explanation of the company could have been called for by other appropriate modes before a view was taken.

6. In above facts and circumstances, the directions for issuance of bailable warrants against the General Manager of the petitioner company returnable for 05.04.2016 are cancelled. If the processes have already been issued, the same shall not be enforced by the Commissioner of Police through whom it has been routed for execution. The learned counsel for the insurance company undertakes that the explanation concerning the issues raised before the tribunal shall be furnished by affidavits of the Regional Manager, who is directly concerned with the matters at hand, within a week of today before the tribunal whereupon the tribunal may consider and pass the necessary orders taking an appropriate view. The liberty for explanation to the furnished as undertaken by the learned counsel on the part of the petitioner is granted. For such purposes, the tribunal shall adjourn the matters for an appropriate date beyond the period of one week from today.

7. The petitions are disposed of with above directions.

8. Copy of the order be given *dasti* under the signature of the Court Master.


R.K.GAUBA, J

APRIL 04, 2016
VLD