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IN THE HIGH COURT OF DELHI AT NEW DELHI

CM(M) 691/2014 & C.M. No.11670/2014

BAJAJ ALLIANZ GENERAL INSURANCE CO. LTD

..... Petitioner

Through Mr. Rajat Brar, Adv.

versus

SMT. VIMLA SAINI & ORS

..... Respondents

Through R-1 with her counsel Mr. Sanjeev
Kumar, Adv.
Ms. Shanta Devi Raman, Adv. for R-
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CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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22.04.2016

Learned counsel for the petitioner states that the senior briefing counsel is not available today. This adjournment is opposed by the learned counsel for the respondents. It is stated that time and again adjournments have been taken and the matter is not being proceeded with before the Trial Court. It is almost at its final stage.

The claimant before the MACT Court is Vimla Saini. She is stated to be a citizen of New Zealand. She had suffered an accident at Hauz Khas, Delhi on 13.12.2009; pursuant thereto this claim had been filed against the insurance company. It was contested. Proceedings were on. In the course of trial, a witness from the High Commission of Australia had also been summoned. This Court has been informed that that witness did not depose as necessary permission from the

Ministry of External Affairs had not been obtained. The present application pursuant to which the impugned order was passed was thereafter filed by the claimant wherein she had sought permission to call a witness from the New Zealand Embassy; submission was that documents relating to the minimum wages applicable in New Zealand would be proved through the said witness from the High Commission of New Zealand. The impugned order had allowed that application.

A Bench of this Court while issuing notice on the present petition had on 25.07.2014 noted the details of the pending proceedings and had also noted that the next date fixed before the Tribunal was 26.07.2014 for which date the witness from the High Commission of New Zealand had already been directed to be summoned. The Court had noted that in case that witness appears on 26.07.2014, his deposition should be recorded subject to the outcome of the present proceedings.

This Court has been informed that on 26.07.2014, the deposition of the witness from the High Commission of New Zealand has since been recorded; he has also been partly cross-examined. This position is disputed by the learned counsel for the petitioner who states that as far as his information goes, the witness has not been cross-examined.

Be that as it may, noting the nature of the litigation of the proceedings before the MACT which are not strictly guided by technical rules of procedure, in view of this Court, the discretion exercised by the Trial Judge in allowing the witness from the High Commission of New Zealand to come and depose which was only a

piece of evidence which would be dealt with by the MACT Court noting it to be a relevant or an irrelevant piece of evidence and then passing an order on the aforementioned piece of evidence, this exercise of discretion in view of this Court was in no manner arbitrary which can call for any interference by this Court.

Needless to state that the petitioner before this Court is permitted to further cross-examine the witness who has been summoned from the High Commission of New Zealand and if his cross-examination has not commenced, he shall start his cross-examination and conclude it early. Parties to appear before the Court of MACT on the date already fixed i.e. 30.07.2016.

Petition disposed of.

INDERMEET KAUR, J

APRIL 22, 2016

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