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

+ MAC.APP. 1155/2013

RAMLESH KUMARI

MADANMOHAN CHATURVEDI

..... Appellant

Through: Mr. Muddassir Daiyyan, Adv.

versus

DELHI TRANSPORT CORPORATION & ORS Respondents

Through: Mr. C. K. Gola, Adv. for Mr.
Abhishek Kumar, Adv. for Ins. Co.
Mr. Jyotindra Kumar, Adv. for R-1.

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

ORDER

% **20.10.2016**

1. The appellant is present in court with counsel and she submits that she has incurred amount Rs.4,00,000/- on the treatment. She further submits that the disability certificate has been issued after passing of the award on 04th August, 2014 whereby 40% disability has been assessed by the medical board. She further submits that she has undergone surgery for bone grafting after passing of the award. The appellant seeks permission to lead additional evidence to prove the disability, expenditure incurred on treatment as well as the loss of earning capacity.

2. This court is satisfied that the additional evidence is necessary to determine the just compensation to which the appellant is entitled. Since the appellant underwent the surgery after passing of the award and disability certificate has also been issued after passing of the award, it was not possible for the appellant to have placed the same before the Claims Tribunal.

3. In exercise of power under Order 41 Rule 27 (1) (b) CPC, this Court considers the additional evidence of appellant necessary to be recorded by the Claims Tribunal.
4. In the facts and circumstances of this case, this case is remanded back to the Claims Tribunal for recording of the additional evidence. The Claims Tribunal shall pass a fresh award after recording of the additional evidence. The compensation awarded by the Claims Tribunal to the appellant shall be adjusted against fresh award that would be passed by the Claims Tribunal. The appeal is disposed of in above terms.
5. The parties shall appear before the Claims Tribunal on 09th January, 2017 when the Claims Tribunal shall fix the case for recording of the additional evidence.
6. The Trial Court record be returned back forthwith.
7. Copy of this order be given *dasti* to learned counsels for the parties under signature of Court Master.

J.R. MIDHA, J.

OCTOBER 20, 2016
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