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

+ CM(M) 412/2015 & CM No. 8409/2015

RELIANCE GENERAL INSURANCE CO LTD Petitioner

Through: Mr. Pankaj Gupta for Mr. Sameer
Nandwani, Adv.

versus

NEETU & ORS

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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25.02.2016

The petitioner insurance company, second respondent in the motor accident claim petition No.307/08/14 is aggrieved with the order dated 12th March, 2015 of the tribunal closing the opportunity for its evidence on the ground no witness of the said respondent was present, it being an old matter “no useful purpose would be served to keep the matter again and again for RE”.

Inspite of notice, respondents have not appeared to contest the petition.

Having heard the learned counsel for the petitioner and having perused the record of the tribunal it is found that the order is wholly improper and unjustified. The claimants had concluded their evidence on 28.11.2013 where after the matter was listed for evidence of the insurance company on 06.02.2015. The matter stood adjourned from time to time for

various reasons. By order dated 4th February, 2015 it had been listed for respondent's evidence on 12th March, 2015 with direction that the witnesses mentioned in the application under Order 16 Rule 1 of the Code of Civil Procedure, 1908 be summoned on steps to be taken. The record shows steps were duly taken and summons were issued. The office report on the record indicates the summons sent to the witnesses were not received back and no witness was present. In these circumstances, the tribunal could not have closed the opportunity only because it is an old matter. It was duty bound to first ascertain the status of the summons issued to the witnesses and if there had been any default on the part of the respondent, it could have taken a proper view in such regard.

Thus, the petition is allowed. The impugned order is set aside. The tribunal is directed to grant proper and effective opportunity to the petitioner to adduce its evidence. Needless to add, given the old pendency of the matter, the petitioner must show proper diligence and take timely steps.

Petition is disposed of in above terms.

Tribunal's record be returned.

R.K.GAUBA, J

FEBRUARY 25, 2016

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