

\$~3

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

+ **FAO 175/2015 & CM APPL. 10231/2015**

MAGMA HDI GENERAL INSURANCE CO LTD

..... Appellant

Through: Mr. Navneet Kumar with Mr. Vikas
Bhadana, Advocate.

versus

MAHARANA & ANR

..... Respondent

Through: Mr. N. Chauhan, Advocate for
respondent No.1.

CORAM:

HON'BLE MR. JUSTICE V.K. SHALI

ORDER

% 17.02.2016

1. I have heard the learned counsel for the parties. It has been pointed out by learned counsel for the appellant that in the impugned order of the Commissioner, Employee's Compensation it is mentioned that the factum of employee employer relationship, salary and death of driver during the course of employment have been admitted in the written statement. However, a perusal of the record of the Commissioner, Employee's Compensation shows that there is no written statement filed on record.

2. It seems that the respondent No.1 had written to the present appellant, the insurance company, admitting there that the deceased driver was in their employment and was getting a salary of Rs. 8,000/-

p.m. It has also been admitted that the age of the driver was 45 years and while driving the truck loaded with mangoes from Behat to Delhi, he was shot by some miscreant. It is because of these reasons that the employer had requested the insurance company vide a letter to process the claim of the legal heirs of the deceased.

3. Learned counsel for the appellant has stated that this letter was never received or delivered to them. Further the defence taken by the appellant/insurance company has not been dealt with anywhere in its order by the Commissioner, Employee's Compensation. Because of these reasons, the impugned order is erroneous, and is in violation of the principles of natural justice inasmuch as it does not deal with the defence raised by the appellant.

4. Accordingly the impugned order is set aside and the matter is remanded back to the Commissioner, Employee's Compensation to decide the entire matter afresh, after considering the defence of the appellant.

5. Keeping in view the fact that the impugned order is being set aside and there is already an order passed by this court directing release of 50% of the amount, said order shall be deferred till the time the matter is decided afresh by the Commissioner, Employee's Compensation.

6. Both the parties are directed to appear before the Commissioner Employee's Compensation on 10.03.2016. The amount which has been deposited by the appellant shall be transmitted to the Employee's Compensation to be disbursed in terms of the final award passed by it. It is expected that the learned Commissioner shall try to

dispose of the matter as expeditiously as possible, preferably within a period of three months. Once the amount is transmitted to the Commissioner, Employee's Compensation, it shall be kept in an interest bearing fixed deposit for such term, as it deems fit.

7. With these directions, the present appeal stands disposed of.

V.K. SHALI, J

FEBRUARY 17, 2016 / n