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

+ **CM(M) 1272/2015 & C.M.32380/2015**

HDFC ERGO GENERAL INSURANCE CO LTD Petitioner

Through: Mr. A.K. Soni, Advocate

Versus

JOGINDER CHOUDHARY & ORS

.....Respondents

Through: Nemo

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

% **02.12.2016**

Impugned order of 21st July, 2014 closes petitioner's right to file written statement/reply by noting that the proceedings are at the evidence stage.

As per last order, service is complete.

None appears on behalf of respondents despite service. They are accordingly set *ex parte*.

Upon hearing and on perusal of impugned order, I find that impugned order harshly operates upon petitioner as it was stated during the course of hearing that the claimant's evidence has not yet begun and that the stand of appellant before trial court is that the driving license of the driver of the offending vehicle is fake. In such a situation, instead of closing the right of petitioner to file the written statement/reply, the appropriate course would have been to take written statement/ reply on

record while subjecting petitioner to terms.

In view of aforesaid, impugned order is set aside subject to cost of ₹10,000/- to be paid by petitioner to respondent-claimant before the learned Tribunal. Upon payment of costs within two weeks from today, petitioner's written statement be taken on record.

With aforesaid directions, this petition and the application are disposed of.

Dasti.

(SUNIL GAUR)
JUDGE

DECEMBER 02, 2016

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