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

Decided on: 19th July, 2017

+ MAC.APP. 74/2017 and CM APPL.2274-75/2017,
CM APPL.14200 /2017

KAJAL SHARMA & ANR Appellants
Through: Dr. Sarabjit Sharma, Advocate with
Ms. Sunaina Pasricha, Advocate
versus

AMARJEET PANDIT & ORS Respondents
Through: Mr. Ravinder K. Rawat, Adv. for R-1.
Mr. Awadhesh Kumar, Advocate for
R-4.

CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The service and presence of second and third respondent is dispensed with as they did not press the claim which appears to have been initially made on their behalf, it having been accordingly dismissed by order dated 21.03.2016 of the Tribunal as noted in (para 2 of) the impugned judgment dated 09.05.2016. Their names shall be struck off from the array of parties.

2. The first respondent is described as driver of taxi bearing registration no.DL-1T-5861, his allegations being that the accident occurred due to negligence on the part of the first appellant, she being

the driver of vehicle no.DL-4C-AE1104, such vehicle moving ahead of the taxi at the time of the accident. The contention of the appellants is that it was the taxi driver (first respondent) who was negligent as his vehicle had hit the car of the appellants from behind. The appellants also submit that the impugned judgment was passed without notice. The appellants also challenge the order dated 02.11.2016 whereby their application under Order IX Rule 13 of the Code of Civil Procedure, 1908 (CPC) was dismissed.

3. The learned counsel for the appellants and for the first respondent (Amarjeet Pandit) have been heard and the Tribunal's record perused. The learned counsel for the first respondent fairly concedes that the claim having arisen out of Detailed Accident Report (DAR), no claim petition having been instituted by the said party in his own rights, there being no insurance company in the fray and consequently there being no legal offer of any compensation by any insurer, the normal procedure under the Delhi Motor Accidents Claims Tribunal Rules, 2008, had to be strictly applied and consequently a formal notice to show cause was required to be issued to the parties against whom the claim was being agitated. In the present case, it is fairly conceded by the learned counsel for the claimant, the Tribunal did not issue any such show cause notice and, therefore, there has been a breach of the fundamental principles of natural justice, the award having been passed without notice or opportunity to contest.

4. Given the above facts and circumstances, the learned counsel for the first respondent (Amarjeet Pandit) submitted that while the

appeal may be allowed, claim proceedings before the Tribunal arising out of the DAR may be revived and the parties may be relegated to further proceedings before the Tribunal.

5. Ordered accordingly.

6. The appellants and the first respondent are directed to appear before the tribunal for further proceedings on 16th August, 2017.

7. Needless to add, given the proceedings conducted thus far, the appellants would now be deemed to have been served with show cause notice. They shall, however, be served with copy of the DAR and the materials submitted therewith and, thereafter, given an opportunity to file written statement(s) before formal inquiry commences.

8. The appeal is allowed in above terms.

9. Pending applications also stand disposed of.

10. The statutory amount, if deposited, shall be presently refunded to the appellant.

11. *Dasti.*

R.K.GAUBA, J.

JULY 19, 2017
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