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

% **Date of Decision: 11th September, 2017**

+ **FAO 189/2012 & CM No.7853/2012**

ORIENTAL INSURANCE CO. LTD. Appellant
Through: **Mr. A.K. Soni, Adv.**

versus

MANDODARI JOSHI & ORS Respondents
Through: **Ms. Pratima N. Chauhan, Adv. for R1 to R6.**

CORAM:
HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

1. The appellant has challenged the impugned order dated 06th February, 2012 whereby the Commissioner, Employees' Compensation has awarded compensation of Rs.3,45,859/- to respondents No.1 to 6.
2. Respondents No.1 to 6 are the legal representatives of Narayan Dutt Joshi and they filed an application for compensation claiming that Narayan Dutt Joshi was murdered during the course of his employment with respondent No.8; the deceased was driving vehicle No. HR-05Q-3071 owned by respondent No.8 and the said vehicle was attached to respondent No.7 on whose instructions the deceased drove the vehicle to Haridwar from Delhi on 16th July, 2006; the dead body of the deceased was found by the police in jungle on 18th July, 2006; and the police registered FIR No.340/2006 dated 09th August, 2006 at P.S. Kotwali, Delhi.

3. The appellant contested the claim on the ground that the registration certificate of the offending vehicle was got verified through three investigators from Registration Authority, Karnal and the registration No. HR-05Q-3071 has been issued in the name of Surender Sharma for a motorcycle. The appellant also raised the defense that the offending vehicle was registered for use as a private car whereas it was used for commercial purpose at the time of the accident.
4. Respondent no.7 contested the claim on the ground that on 16th July, 2006, no journey to Haridwar was undertaken by them and further that the deceased was never employed with them. Respondent no.7 also contended that deceased was still alive and was living in Nepal as he belongs to Nepal.
5. Respondent No.8 admitted that he was the owner of the vehicle No.HR-05Q-3071 which was validly insured with the appellant. Respondent No.8 admitted that the deceased was working as a driver on the said vehicle but contended that the salary was paid by the respondent no.7.
6. The Commissioner, Employees' Compensation has not considered the contentions of the appellant and respondent No.8 and has not given reasoned findings in respect thereof and, therefore, it would be appropriate to remand this matter to the Commissioner, Employees' Compensation.
7. The appeal is allowed, and impugned order is set aside the matter is remanded back to the Commissioner, Employees' Compensation to hear the parties afresh and pass a fresh order. The pending application is disposed of.
8. The parties shall appear before the Commissioner, Employees' Compensation on 16th October, 2017.
9. The record of the Commissioner, Employees' Compensation be returned back forthwith.

10. Copy of this judgment be given *dasti* to counsels for the parties under the signature of the Court Master.

SEPTEMBER 11, 2017
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J.R. MIDHA, J.

