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

Decided on: 16th August, 2017

+ MAC.APP. 503/2009 and CM APPL.14492/2009

RADHEY SHYAM Appellant

Through: Nemo.

versus

MADHU NARANG & ORS. Respondents

Through: Mr. Pankaj Seth, Advocate for
R-3.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The appellant was the claimant before the Motor Accident Claims Tribunal (the tribunal) on the basis of his accident claim case (Suit No.434/2003) instituted on 24.11.2003 seeking compensation on the ground that he had suffered injuries in a motor vehicular accident that occurred on 24.12.1998 at about 11:30 a.m. due to negligent driving of motor vehicle described as crane bearing No.HR-38B-1122 carrying truck bearing registration No.HR-38B-4459. The tribunal held inquiry and, by judgment dated 02.03.2009, awarded compensation in the sum of Rs.60,000/- directing the third respondent (insurer) to pay, granting it recovery rights against the registered owner of the vehicle, accepting its plea of breach of terms and conditions of the insurance policy.

2. One of the major grounds brought before the tribunal was that the claimant had suffered permanent disability to the extent of forty per cent (40%) on account of shortening of right leg. He sought to support this plea, *inter alia*, by document described as disability certificate (Ex.PW-1/E). The tribunal, however, found the document to be suspect and, thus, rejected the same. The appeal was filed seeking enhancement of compensation primarily reiterating the claim of permanent disability, reference being made to the same very document (Ex.PW-1/E).

3. The appellant had been directed by order dated 16.12.2009 to appear in person along with complete medical record on 10.05.2010. He failed to abide by the said direction against which backdrop appeal was put in the category of '*Regulars*' to be taken up on its own turn. When the appeal has been called out for hearing, again there is no appearance on behalf of the appellant. No further material supporting the plea of permanent disability, or its extent, has been submitted, the reliance being only on document Ex.PW-1/E.

4. The tribunal has given sound reasons for rejecting the aforesaid document declining to act upon it. It was not properly proved. No witness from the office from where it purports to have been issued was submitted. It indicates it was issued under the signature of Chief Medical Officer, Faizabad, U.P. on the basis of assessment by a board of doctors, one of which was assumably an orthopedic surgeon. The names of the doctors are not indicated. Name of the hospital where the medical board was constituted is not mentioned. What raises

suspicion is the admission by the claimant in the course of his testimony to the effect that he never appeared before any such medical board. The evaluation of the disability could not have been done without the person in question being examined. If the appellant never appeared before the medical board, there was no occasion for any such disability certificate being issued.

5. The appeal is, thus, devoid of merits and is dismissed along with accompanying application.

AUGUST 16, 2017
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R.K.GAUBA, J.