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

+ MAC.APP. 483/2008

SIDDHARTH JAIN

..... Appellant

Through: Mr. Diwan Singh Chauhan,
Advocate

Versus

RAJNEESH DAGAR

..... Respondents

Through: Mr. Pankaj Seth, Advocate for
Insurer

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

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02.03.2017

Vide order of 2nd December, 2010, Injured-claimant had closed additional evidence after getting AW1 and AW2 examined, although Injured had filed his own affidavit by way of additional evidence.

Learned counsel for Injured-Claimant submits that the previous counsel was ill-advised to close the evidence as additional evidence was led not only regarding medical treatment post Award, but even in respect of '*letter of offer*' received by Injured two days prior to the accident in question. To assert so, learned counsel for Injured-Claimant has drawn the attention of this Court to '*letter of offer*' of 22nd November, 2004 by OK Play Toys, which is an annexure to the application for additional evidence, to show that salary package of ₹2.5 lacs *per annum* was offered to Injured-Claimant prior to accident in question.

Learned counsel for Injured-Claimant submits that in claim petition there is reference to Design Engineer job offer received by Injured prior

to accident in question, indicating that the salary offered to him was ₹20,000/- per month. It is submitted by learned counsel for Injured that due to lapse of previous counsel, Injured ought not to suffer as Injured-Claimant is present in the Court and in respect of this '*letter of offer*', Injured can be cross-examined as there is reference to this '*letter of offer*' in the additional evidence of Injured as well.

There is strong opposition by learned counsel for Insurer, who submits that after six years, Injured ought not to be allowed to reopen the evidence and the authenticity of the '*letter of offer*' is to be established by getting the author of this letter examined and Injured should not be shown any indulgence for the reason that there is gross negligence on part of Injured in failing to get this letter proved in evidence. Lastly, it is submitted by learned counsel for Insurer that if previous counsel was negligent, then Injured ought to have made complaint against the previous counsel before the appropriate Forum.

Since Injured is present in the Court, so it is put to him as to whether he had instructed his previous counsel to close the additional evidence and his candid answer is that he does not remember and he does not understand the nitty-gritty of law.

Upon hearing, I find that since there is an averment in the claim petition regarding job offer on a salary of ₹20,000/- per month to the Injured few days prior to accident in question and the fact that Injured in his application for additional evidence has asserted that '*letter of offer*' on 22nd November, 2004 could not placed on record earlier because it was misplaced, therefore, it is deemed appropriate to permit Injured to be cross-examined qua the '*letter of offer*' of 22nd November, 2004. The

remaining contents of Injured's affidavit and the documents filed alongwith the application, for additional evidence are excluded from consideration as of now and cross-examination is confined to paragraph No.2A of the application. The Injured-Claimant is put up for cross-examination. After cross-examination of Injured is concluded, additional evidence of Injured-Claimant is taken on record alongwith remaining additional evidence led.

Arguments heard and vide separate common judgment this appeal as well as connected appeal i.e. MAC. APP. 345/2008 is disposed of.

SUNIL GAUR, J

MARCH 02, 2017

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