

\$~R-557

IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on: 24th November, 2017

+ MAC. APPEAL No. 799/2012 & CM No.12703/2012

SHANTI SWAROOP

..... Appellant

Through: Mr. Sameer Nandwani, Advocate

versus

LALINDRA KUMAR MISHRA

.....Respondent

Through: Mr. S.N. Parashar, Advocate

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. By judgment dated 25.04.2012, the Motor Accident Claims Tribunal, decided the accident claim case (MACT No. 06/11), instituted on 17.08.2004, by the respondent. By the said judgment, the appellant was held liable to pay compensation to the respondent on account of injuries statedly suffered by the respondent (claimant) in a motor vehicular accident that occurred on 22.02.2003.

2. It had been alleged by the claimant in the case before the Tribunal that he had been hit by a car bearing registration No. UP-15-LJ-4166. He described the appellant as the driver-cum-owner of the car, which is disputed by him (the appellant). Concededly, the claimant had not mentioned the particulars of the car, or of the appellant, in the first complaint to the police. It was admitted during the course of inquiry before the Tribunal that the claimant had not

seen the appellant at the driving wheel, the information about his complicity by some input later received. The appellant denies that he is the owner of the car in question. On perusal of the record, it is seen that no evidence to bring such connection between the car and the appellant had been adduced before the Tribunal.

3. After some hearing, the counsel for the claimant conceded that there is deficiency in the evidence since even the registration certificate of the car has not been brought on record so as to show the nexus between the car and the appellant. He, thus, submitted that while the appeal may be allowed, the matter may be remitted to the Tribunal for further inquiry so that appropriate evidence can be adduced.

4. The appeal is allowed and the impugned judgment is set aside. The claim case of the respondent is remitted to the Tribunal for further inquiry. For such purpose, the parties shall appear before the Tribunal on 9th January, 2018. It is made clear that the burden of proof regarding complicity of the appellant would remain that of the claimant (the respondent). Therefore, it is he (claimant) who would be called upon to lead additional evidence first, this to be followed by opportunity to the opposite parties to lead evidence in rebuttal, if any.

5. By orders dated 27.07.2012 and 03.09.2012, the appellant had been directed to deposit 50% of the award amount with up to date interest with the Registrar General which was to be kept in fixed

deposit receipt. The said amount with accrued interest and the statutory deposit shall presently be refunded to the appellant.

6. The appeal and the pending application stand disposed of with above observations.

7. Dasti.

NOVEMBER 24, 2017

srb

R.K.GAUBA, J.

