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

Decided on: 27th October, 2017

+ **MAC.APP. 481/2016 and CM 22642/2016**

VIKAS SHARMA @ MONTY & ANR Appellants

Through: Mr. S.S. Jain, Advocate

versus

JAGDISH LAL Respondent

Through: Mr. Rupendu Singh, Advocate

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

JUDGMENT (ORAL)

1. The appellants have been held liable to pay the compensation to the respondent by the judgment dated 16.03.2016 of the Motor Accident Claims Tribunal in the accident claim case (case no.788/2013) which was instituted by the respondent on 26.11.2013, on the basis of finding returned that due to negligent driving of motorcycle bearing registration no.DL-8S-AW-4320 by the first appellant, the accident had occurred wherein the respondent moving on his bicycle was hit resulting in grievous injuries being sustained by him. The motorcycle admittedly was not insured against third party risk for the period in question.

2. The appellants plea has been that they have been falsely implicated and that the motorcycle was not involved in any such

collision. It is argued that accident having taken place on 17.07.2013, no police case was lodged on the said date, the first information report no.395/13 being registered in police station Uttam Nagar on the basis of complaint given by the respondent on 21.07.2013. It is pointed out that though the respondent would claim that he was taken to DDU Hospital by an ambulance pursuant to the call made to the police control room (PCR) from a private hospital where he had moved after the occurrence and that MLC was prepared in the said hospital, no corresponding record of any such input received by PCR or local police till 21.07.2013 has been mustered or brought on record.

3. After some hearing, the learned counsel for the respondent fairly conceded that further evidence would require to be adduced to bring out connection between the appellants and their vehicle on one hand and the injuries suffered by the respondent on the other. He thus requested that while the impugned judgment may be set aside, the matter arising out of the claim case may be remanded to the tribunal for further inquiry. He also fairly conceded that the cost of Rs.10,000/- imposed on the appellants by order dated 04.08.2017 may be waived.

4. The cost imposed on 04.08.2017 is waived. The impugned judgment is set aside. The claim case of the respondent is remanded to the tribunal for further inquiry in the course of which the claimant will be given opportunity to lead further evidence. This, of course, shall be followed by similar further opportunity to the parties that contest for producing additional evidence in rebuttal, if any. The parties are directed to appear before the tribunal on 28.11.2017.

5. In terms of directions in the order dated 03.06.2016, the appellants (respondents before the tribunal) have deposited the awarded amount with interest. The said amount was directed to be retained in fixed deposit receipt in a nationalized bank initially for a period of six months to be renewed from time to time. The said arrangement shall continue. The amount lying in such deposit with accrued interest will be applied by the tribunal appropriately in light of the decision it renders on conclusion of the further inquiry.

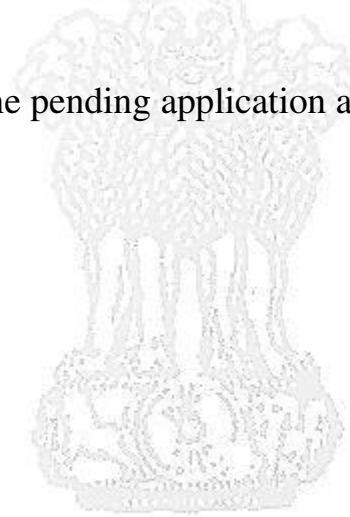
6. The statutory amount, however, shall be refunded to the appellant.

7. The appeal and the pending application are disposed of in above terms.

OCTOBER 27, 2017

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R.K.GAUBA, J.



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