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

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Date of Decision: 11th August, 2017

+ **FAO 377/2016**

THE ORIENTAL INSURANCE CO. LTD.

..... Appellant

Through: **Mr.S.P. Jain, Mr. Himanshu,
Advocates**

versus

BALWINDER SINGH (SINCE DECEASED)

THROUGH LR & ANR.

..... Respondent

Through: **Mr. Pratima N. Chauhan, Advocate
for respondent no.1 along with
Mrs.Sukhvinder Kaur, respondent
no.1 in person**

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

1. The appellant has challenged the order dated 17th March, 2016 passed by the Commissioner, Employees' Compensation whereby compensation of Rs.4,72,944/- has been awarded to respondent No. 1.
2. On 29th March, 2005, Balwinder Singh was driving truck No. HR 38 J 8972 during the course of his employment with respondent No. 2 and he met with an accident which resulted in grievous injuries and permanent disability relating to left leg. Balwinder Singh succumbed to his injuries on 15th November, 2010.

3. The Commissioner, Employees' Compensation held the deceased to be an employee of respondent no. 2 and the accident to have occurred during the course of his employment with respondent no.2. The Commissioner, Employees' Compensation awarded compensation of Rs.4,72,944/- to respondent no. 1.

4. Learned counsel for the appellant urged at the time of hearing that the deceased was not holding a driving license at the time of the accident and therefore, the appellant is entitled to recovery against respondent no.2.

5. Learned counsel for respondent no. 1 has shown original driving licence No.WB-25-075475 dated 31st July, 1994 valid upto 29th August, 2012 issued by Licencing Authority, West Bengal and has provided a copy thereof to counsel for the appellant.

6. The compensation of Rs.4,72,944/- awarded by the Commissioner, Employees' Compensation to respondent no.1 is upheld. However, the issue with respect to the appellant's claim for recovery rights against respondent No. 2 is remanded back to the Commissioner, Employees' Compensation. The appellant shall in the meantime get the driving licence furnished by counsel for respondent No.1 verified from the Licencing Authority. The appeal is disposed of in the above terms.

7. The appellant has deposited Rs.11,11,845/- with the Commissioner, Employees' Compensation on 1st August, 2016. Vide order dated 22nd February, 2017, the Commissioner, Employees' Compensation was directed to transfer the said amount to UCO Bank, Delhi High Court Branch.

8. Respondent no. 1 is present in Court and has produced her original passbook of account No.3482000104194510 with Punjab National Bank, Dorangla (Distt. Gurdaspur), Punjab, IFSC : PUNB0348200.

9. Upon receipt of the aforesaid amount from Commissioner, Employees' Compensation, UCO Bank Delhi High Court is directed to disburse the amount in the following manner:

(i) Keep Rs.10 lakh in 100 FDRs of Rs.10,000/- each for the period 1 month to 100 months respectively in the name of respondent no.1, Sukhwinder Kaur @ Sukhvinder Kaur with cumulative interest

(ii) The balance amount after keeping Rs.10 lakh in FDRs be released to respondent no.1 by transferring the same to her aforesaid savings bank account with Punjab National Bank, Dorangla (Distt. Gurdaspur), Punjab.

10. The maturity amount of the FDRs along with interest shall be transferred to the aforesaid savings bank account of the respondent no.1.

11. All the original FDRs shall be retained by UCO Bank, Delhi High Court Branch. However, the statement containing FDR number, FDR amount, date of maturity and the maturity amount be furnished to the respondent no.1.

12. No loan or advance or pre-mature discharge shall be permitted without the permission of this Court.

13. No cheque book or debit card be issued to respondent no.1 without the permission of this Court. However, in case, the debit card/cheque book have already been issued, Punjab National Bank, Dorangla (Distt. Gurdaspur), Punjab shall cancel the debit card and/or cheque book.

14. The appellant shall appear before the Commissioner, Employees' Compensation on 16th October, 2017.

15. It is clarified that if the driving license furnished by respondent no.1 to the appellant in Court is found to be genuine, the appellant shall not press the claim for recovery rights and place the verification report before the

Commissioner, Employees' Compensation.

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

17. Copy of this judgment be sent to UCO Bank, Delhi High Court Branch and Punjab National Bank, Dorangla (Distt. Gurdaspur), Punjab.

AUGUST 11, 2017
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J.R. MIDHA, J.

