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

Decided on: 22nd August, 2017

+ MAC.APP. 425/2015 and CM APPL.9273/2015

BAJAL ALLIANZ GENERAL INSURANCE CO. LTD.

..... Appellant

Through: Ms. Suman Bagga, Advocate
with Mr. Pankaj Gupta, Adv.

versus

SUMAN LATA & ORS.

..... Respondents

Through: Ms. Vandana Surana, Advocate
for R-3.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The appeal is by the insurance company questioning the interim award under Section 140 of the Motor Vehicles Act, 1988 by the impugned order dated 27.03.2015 passed in the course of proceedings arising out of MAC Petition No.159/2013, its contention being that there was no clear proof of involvement of the vehicle insured by it, an issue of fact having arisen because the collision is denied.

2. The learned counsel for the first to fifth respondents (collectively, the claimants) fairly concedes that the appeal may be allowed submitting that the claimants would press for the requisite

compensation by the final judgment based on evidence to be adduced during inquiry.

3. The impugned order dated 27.03.2015 under Section 140 of the Motor Vehicles Act, 1988 is set aside. The appeal stands allowed accordingly.

4. Needless to add, the tribunal will take a decision on the involvement of vehicle in question and on the question of negligence on the part of the driver on the basis of evidence adduced before it to render its decision on the petition under Section 166 of the Motor Vehicles Act, 1988, uninfluenced by the impugned order and any observations made in this judgment.

5. The amount deposited by the insurer in terms of the order dated 19.05.2015 and statutory amount shall be refunded to the appellant.

6. The parties shall appear before the tribunal on 21st September, 2017.

7. The tribunal's record shall be returned forthwith with copy of this judgment.

8. The appeal along with accompanying application stands disposed of in above terms.

9. *Dasti.*

R.K.GAUBA, J.

AUGUST 22, 2017

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