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

Decided on: 08th November, 2017

\+ MAC.APP. 633/2017 and CM 25817/2017 and 25819/2017

SHRIRAM GENERAL INSURANCE COMPANY LTD ..... Appellant

Through: Mr. Priyadarsi Acharya for Mr. Sameer Nandwani, Advocate

versus

AJAY & ORS ..... Respondents

Through: Mr. S.N. Parashar, Adv. for R-1

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

JUDGMENT (ORAL)

1. The issue raised in this appeal directed against the judgment dated 16.01.2017 of the Motor Accident Claims Tribunal (Tribunal) in accident claim case (MACP 372/2016) of the first respondent (claimant) was captured in the proceedings recorded on 24.07.2017 which, to the extent relevant, read thus :-

> *"...The claim case was adjourned by the Tribunal to 12.07.2017 for recording of evidence of the petitioners by proceedings recorded on 15.11.2016. It appears on 19.11.2016, at the joint request of the claimant, on one hand and insurance company, on the other, the matter was referred to the Lok Adalat, which was scheduled for 10.12.2016. The matter could not be settled in the Lok Adalat and returned. It was taken up by the Tribunal on*

16.01.2017 and the Tribunal proceeded to grant the award of compensation by the impugned judgment without formally recording the evidence of the claimant or giving opportunity to the insurance company to lead evidence in rebuttal.

The copies of the proceedings which have been filed do not seem to indicate presence of second or third respondents (i.e. driver or owner).

Issue notice presently to the first respondent (claimant) on requisite steps being taken, returnable on 08.11.2017.

The execution of the impugned award is stayed.

The Tribunal's record shall be called for."

2. The first respondent has appeared through counsel and fairly concedes that the procedure adopted by the tribunal was wholly improper and erroneous and, therefore, cannot be defended. He further fairly conceded that the appeal may be allowed and the matter arising out of the claim case be remanded to the tribunal for appropriate enquiry.

3. The appeal is allowed. The impugned judgment is set aside. The parties are directed to appear before the tribunal for further proceedings in accordance with law on 08.12.2017.

4. The statutory amount shall be refunded to the insurance company.

5. The appeal and the pending applications are disposed of in above terms.

R.K.GAUBA, J.

NOVEMBER 08, 2017
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