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

+ MAC.APP. 636/2017 and C.M. Appl. 34316/2017

KAMRU

..... Appellant

Through: Mr. Ram Singh Soni and Mr. Ashok  
Kumar Soni, Advocates

versus

CHANDERPAL & ORS

..... Respondents

Through: Mr. Deepak Goel and Mr. Tejveer  
Singh, Advocates for respondents  
No.1 to 3  
Mr. Anuj Aggarwal, ASC for  
GNCTD with S.I. Arvind Singh, P.S.  
Mehrauli

**CORAM:**

**HON'BLE MR. JUSTICE J.R. MIDHA**

**ORDER**

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**19.09.2017**

1. S.I. Arvind Singh is present from P.S. Mehrauli and has produced the eye witness, Mr. Hoshla Prasad. Mr. Hoshla Prasad has shown his election ID card and passbook of his savings bank account. He has been examined under Section 165 of the Indian Evidence Act.
2. Mr. Hoshla Prasad, in his statement made today, has denied being an eye witness of the accident.
3. Learned counsel for the respondents No.1 to 3 submits that the eye witness has turned hostile and, therefore, the respondents be permitted to cross-examine the witness. Learned counsel for respondents No.1 to 3 submits that the matter be remanded back to the Claims Tribunal to enable the respondents to cross-examine the eye witness. Learned counsel for respondents No.1 to 3 seeks liberty to lead further evidence in the matter.

4. Learned counsel for the petitioner has no objection to the remand of the matter back to the Claims Tribunal for cross-examination of the eye witness and additional evidence by the respondents. Learned counsel for the petitioner also seeks permission to seek additional evidence, if so required.
5. With the consent of both the parties, the delay in filing the appeal is condoned; the impugned award dated 29<sup>th</sup> November, 2017 is set aside and the matter is remanded back to the Claims Tribunal.
6. The parties shall appear before the Claims Tribunal on 01<sup>st</sup> November, 2017 at 02:30 p.m. Mr. Hoshla Prasad, present in Court today, shall remain present before the Claims Tribunal for recording of evidence. The Claims Tribunal shall permit the parties to lead additional evidence.
7. S.I. Arvind Singh, present in Court today, shall also remain present before the Claims Tribunal along with relevant police record including the statement of Mr. Hoshla Prasad.
8. The Claims Tribunal shall endeavour to pass fresh award after the additional evidence within a period of six months.
9. The amount deposited by the petitioner with the Registrar General of this Court be retained in fixed deposit. The Registrar General shall disburse the amount deposited by the petitioner in terms of the fresh award to be passed by the Claims Tribunal.
10. The appeal is disposed of in the above terms. C.M. Appl. 34316/2017 is disposed of.
11. Copy of this order be given *dasti* to counsels for the parties under signatures of the Court Master.

**J.R. MIDHA, J.**

**SEPTEMBER 19, 2017**

rsk

**MAC.APP. 636/2017**

Statement of Mr. Hoshla Prasad Son of Shri Nathu, resident of 735, Poore Achli, Tehsil Maharajganj, Distt. Rae Bareli, U.P. – 229306 **on S.A.**

About 15-16 years ago I was working in Gujral Nursery at Bandh Road as a gardener. Ram Hark was also working there. I do not remember the exact date. At about 10:00 a.m., Ram Hark left the nursery for his native place. After some time, the police came and told me that Ram Hark has died in a road accident whereupon I told the police that he was working in Gujral Nursery and had left some time back. I am not aware as to how and with which vehicle the accident took place.

(At this stage, the statement of Hoshla Prasad recorded by police Ex.PW-6/A is shown to Mr. Hoshla Prasad in which he had stated having witnessed the accident.)

I deny the above statement.

**R.O.&A.C.**  
**19<sup>th</sup> September, 2017**  
rsk

**(J.R. MIDHA)**  
**JUDGE**