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

+ **MAC.APP. 874/2017 & CM Nos. 35373-375/2017**

**UTTAR PRADESH STATE ROAD TRANSPORT CORPORATION**

..... Appellant

Through: Ms.Garima Prashad, Adv.

versus

**PARVESH & ANR**

..... Respondents

Through:

**CORAM:**

**HON'BLE MR. JUSTICE R.K.GAUBA**

**ORDER**

**%**

**25.09.2017**

The sole ground pressed to submit the present appeal directed against judgment dated 27.07.2017 passed by the motor accident claims tribunal in accident claim case (suit no. 530/2015) of the first respondent (claimant) is that address of Delhi was wrongly shown as the claimant is actually ordinary resident of Agra, the accident also having occurred in that city and on this account the minimum wages of Delhi should not have been applied to calculate the loss of earning due to injuries suffered. The appeal is accompanied by application under Order 41 Rule 27 of the Code of Civil Procedure, 1908 (CPC) to bring on record as “additional evidence” concerning the Aadhar Card of the claimant, copy whereof has been submitted as Annexure P-5 (page 64 of the paper book). The counsel for the appellant, on being asked, conceded that this issue was not raised before the

tribunal. It is her submission that the copy of Adhar Card was generated only on 01.09.2017 as is shown by its copy submitted with the appeal. The claim petition was filed on 22.12.2015 and it remained pending inquiry before the tribunal till 27.07.2017. There is no explanation as to why such investigative exercise could not have been undertaken earlier. The opportunity for additional evidence under Order 41 Rule 27 CPC is not available for the asking. The appellant must show exercise of due diligence which is missing in the present case.

The appeal with accompanying applications are dismissed in *limine*.

The statutory deposit shall stand forfeited as costs in favour of Delhi High Court Legal Services Committee.

**R.K.GAUBA, J**

**SEPTEMBER 25, 2017**

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