

255 **IOIN-Cross Objection No.118-CII-2012 IN**
Cross Objection No.118-CII-2012 IN
FAO-4851-2011

KIRAN SETHI & ORS
V/S
SABHARWAL BUS SERVICE & ORS

Present: None for the cross-objectors.

This matter has been listed before this Court pursuant to an application filed by Ms. Ekta Thakur, counsel for cross-objectors, in the office of Registrar (Judicial) seeking refund of statutory deposit of ₹ 25,000/- which cross-objectors had deposited at the time of filing cross-objections in this Court. Although in the cross-objections filed by cross-objectors, it is nowhere specifically mentioned as who the cross-objectors are, but since the same had been filed by Ms. Ekta Thakur, Advocate, who was representing respondent No. 1 & 2, it is taken that both respondent no. 1 and 2 are the cross-objectors.

The claimants Kiran Sethi and others had filed FAO No. 4851 of 2011 in this Court seeking enhancement of compensation as awarded to them by learned MACT, Gurgaon on account of death of Manpal husband of Kiran Sethi. The learned Tribunal while directing the Insurance Company to pay the compensation in the first instance had given recovery rights to the Insurance Company to recover the same from the insured. Respondent no. 1 and 2, owner and driver of the offending vehicle filed cross-objections mainly aggrieved by grant of recovery rights to the Insurance Company. Vide judgment dated 21.5.2018 of this Court, while the claimants' appeal was accepted and compensation was enhanced, the cross-objections were also accepted and it was held that since the driver was possessing a valid driving licence, it is only the Insurance Company which has to pay the

compensation amount and has to indemnify the insured. In other words, the Insurance Company was not to be given recovery rights.

Consequently, upon the cross-objections having been accepted and the entire liability having been fastened upon the Insurance Company without there being any recovery rights, the cross-objectors are entitled to refund of statutory amount of ₹ 25,000/-.

In case the said amount has not already been transmitted to Tribunal, the same be refunded to cross-objectors. Office shall do the needful for refunding the amount of ₹ 25,000/- to the cross-objectors which had been deposited by the cross-objectors at the time of filing cross-objections.

31.8.2018

kamal

(Gurvinder Singh Gill)
Judge