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

% *Decided on: 09.02.2018*

+ **FAO 48/2018**

AKHIL

..... Appellant

Through: Mr. R.K. Nain, Advocate.

versus

M/S SHRI RAM GENERAL INSURANCE
CO LTD & ORS

..... Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J. (Oral)

FAO 48/2018 & CM Nos. 4811/2018, 4812/2018 & 4813/2018

1. The learned counsel for the appellant seeks permission of the court that he may be permitted to delete the allegation of bias apropos the learned Commissioner in para 2 of the appeal. Accordingly, the first sentence of para 2 of the appeal shall be deemed to have been deleted.

2. This appeal filed under section 30 of The Employees Compensation Act, 1923 impugns the order dated 03.01.2008 passed by the Ld. Commissioner, Employees Compensation Act, in case no. WC-I/05/WD/2017.

3. Brief facts according to the learned counsel for appellant/claimant are that the appellant was employed with R2 as a driver in vehicle bearing no HR-37C-5805; that on 03.04.2012 at 7.30pm someone fired a gun shot and the cartage pierced through his lower body and caused injury on his right leg; due to this, the claimant has become 100% disabled for the purpose of his employment as a driver; he further states that the said vehicle was owned by R2 at the time of the accident and was insured with R1; that the claimant/ appellant has till date made several visits to R1 and R2 but no compensation has been given to him.

4. Respondent no 1 through his written statement before the Commissioner submitted that he never employed the claimant/ appellant as his driver nor he is the registered owner of the said vehicle. He further submitted that he has discovered from the internet that the registered owner of the said vehicle is one Mehar Singh.

5. The impugned order has observed that the claimant/appellant is a resident of District Saharanpur (UP), so is R2, while R3 is a resident of Haryana. In the claim petition the address of the claimant is given to be in Delhi, but no documents have been filed on record to prove the same; that simply because the Respondents have taken an insurance policy in Delhi for the said vehicle, the same would not amount to the claim petition being filed in Delhi and the petition was stated to be beyond the jurisdiction of the Court; that in the medical injury report there is no mention that the claimant/ appellant was a truck driver and that he suffered the injury in the truck as a driver; that the owner of the vehicle and the driver are not always the same person and the claimant should know his employer as well as the owner of

the vehicle as he is always required to keep the Registration Certificate in the vehicle; that no sufficient grounds were raised for condonation of delay; that the present case is also a false case in the series of cases filed by the learned counsel in different courts in Delhi.

6. The learned counsel for the appellant/ claimant argues that the appellant is migrant labourer; he migrates as per availability of work for his sustenance. The grounds raised by the learned counsel for the appellant/ claimant are not sufficient to set aside the impugned order as his argument is only about the learned Commissioner having some personal bias and without going into the merits of the case and without formulating any issues against the counsel and not about the merits of the order on facts.

7. This court is also of the view that in the facts of the case as narrated above, the matter cannot be adjudicated upon in Delhi and the same is liable to be dismissed on lack of territorial jurisdiction. It is also very unusual that the driver himself does not know as to who is the actual owner of the vehicle and who is his employer, though in law he is his always required to keep the Registration Certificate inside the vehicle, which clearly and specifically mentions all such details.

8. In view of the above, no grounds are made out to set aside the impugned order. It is dismissed accordingly.

NAJMI WAZIRI, J

FEBRUARY 09, 2018/RW