

\$~55

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

+ **MAC.APP. 469/2018 & CM No.19932/2018**

RAKESH KUMAR Appellant

Through: **Mr. Avtar Singh, Advocate**

versus

M/S NEW INDIA ASSURANCE CO LTD & ORS Respondents

Through: **Mr. D. Rajeshwar Rao, Mr. Ravinder
Pratap Singh, Advocates for
respondent No.1**

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

ORDER

% **31.05.2018**

MAC.APP. 469/2018 and CM No.22343/2018

1. The appellant has challenged the award of the Claims Tribunal insofar as the Claims Tribunal has granted recovery rights to respondent No.1 to recover the award amount from the appellant.
2. Learned counsel for the appellant submits that there is no breach in the terms and conditions of the insurance policy by the appellant inasmuch as the offending vehicle was insured with respondent No.1 since the year 2000-2001 and an own damage claim with respect to the insured vehicle was cleared by respondent No.1 after examining the same driving licence of the driver involved in the accident. Copy of the RTI application along with the reply has been filed along with the appeal as Annexure 'H' (colly.). Learned counsel for the appellant seeks permission to lead additional evidence.
3. CM No.22343/2018 is allowed and the appellant is permitted to lead additional evidence before the Claims Tribunal.
4. The appeal is allowed and the recovery rights granted by the Claims

Tribunal to respondent No.1 to recover the award amount from the appellant are set aside and the issue as to whether respondent No.1 is entitled to recovery rights against the appellant is remanded back to the Claims Tribunal. The Claims Tribunal shall record the additional evidence of the appellant and thereafter, afford an opportunity of rebuttal to respondent No.1. The Claims Tribunal shall pass a fresh order after recording the additional evidence.

5. The parties shall appear before the Claims Tribunal on 27th July, 2018 when the Claims Tribunal shall fix the date for recording of the additional evidence. The Claims Tribunal shall endeavour to pass the fresh order within a period of eight months from the date of recording of the additional evidence.

6. The pending application is disposed of.

7. Copy of this order be given *dasti* to counsel for the parties under the signature of the Court Master.

J.R. MIDHA, J.

MAY 31, 2018

dk