

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

Date of Order: August 23, 2018

+ **CM(M) 759/2018 & C.M. No. 27020/2018**

THE ORIENTAL INSURANCE CO LTD. Petitioner
Through: Mr. S.P. Jain, Ms. Amandeep
Kaur, Mr. Himanshu Gambhir and
Mr. Abhijit Chakravarty,
Advocates

Versus

NISHA DEVI & ORS.Respondents
Through: Nemo

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

1. Impugned order of 7th March, 2018 declines petitioner's application for impleading the owner and Insurer of car bearing Registration No. DL8CAK-1665, which is said to be the offending vehicle. Though it is the case of respondents that the accident in question had taken place due to negligence of the insured vehicle, but petitioner/Insurer in the Reply before the Motor Accident Claims Tribunal-2 (North), Rohini Courts, Delhi (*hereinafter referred to as 'the Tribunal'*) has taken the stand that negligence is of the driver of the offending vehicle i.e. the aforesaid car.
2. To seek impleadment of owner and Insurer of the aforesaid car in question, petitioner's counsel places reliance upon Supreme Court's

decision in *Khenyei v. New India Assurance Co. Ltd. & Ors.*, (2015) 9 SCC 273.

3. Counsel representing respondents before the Tribunal has been served, but none appears on behalf of respondents.

4. Upon hearing and on perusal of impugned order of 7th March, 2018 and the decision cited, I find that since petitioner has taken stand in the Reply before the Tribunal that the negligence is of driver of the car in question, who is no longer alive, therefore, in light of Supreme Court's decision in *Khenyei (supra)*, impugned order rejecting petitioner's application for impleadment of owner and Insurer of the car in question cannot be sustained and is accordingly set aside. Petitioner is permitted to file amended memo of parties before the Tribunal within a week from today, so that newly impleaded owner and Insurer of the car in question are served for the date already fixed before the Tribunal. Service be effected upon newly added respondents by speed post, approved courier as well as *dasti*.

5. With aforesaid directions, this petition and the application are disposed of.

6. Copy of this order be given *dasti* under signatures of the Court Master to learned counsel for petitioner.

(SUNIL GAUR)
JUDGE

AUGUST 23, 2018

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