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

+ **FAO 198/2015 & CM No.11349/2015**

THE NEW INDIA ASSURANCE CO LTD Appellant
Through: **Mr. J.P.N. Shahi, Advocate.**

versus

RAVI KUMAR & ANR Respondents
Through: **Mr. R.K. Nain, Advocate for
respondent No.1.**

CORAM:
HON'BLE MR. JUSTICE J.R. MIDHA

% **ORDER**
19.07.2018

1. The appellant has challenged the impugned order dated 27th April, 2015, whereby the Commissioner, Employees' Compensation awarded Rs.10,62,576/- to respondent No.1.
2. Respondent No.1 filed an application for compensation before the Commissioner, Employees' Compensation on the averments that he was driving a truck bearing registration No.HR-69B-2785 on 24th September, 2013 during the course of his employment with respondent No.2 and he met with an accident at 05:00 a.m. near Devi Mandir, Shvali, which resulted in 40% permanent disability.
3. Learned counsel for the appellant urged at the time of hearing that Commissioner, Employees' Compensation had no territorial jurisdiction to entertain and try the claim petition as the accident occurred outside Delhi, respondent No.1 resides outside Delhi and the policy in question was also issued outside Delhi. It is submitted that the respondent No.1 was not a resident of Delhi at the time of the accident which is clear from the

documents placed on record by him including the police report, the discharge slip of the nursing home as well as the Aadhaar Card. Without prejudice it is submitted that the policy does not cover the risk of the driver. It is further submitted that no FIR was registered in respect of the alleged accident. It is further submitted that no evidence whatsoever was led by respondent No.1 to even prove the alleged accident.

4. The record of the Commissioner, Employees' Compensation has been perused. The Commissioner, Employees' Compensation has not adjudicated the appellant's objection of territorial jurisdiction. The record of the Commissioner, Employees' Compensation reveals that no evidence whatsoever was led by respondent No.1 to prove the accident or the injuries suffered in the accident and the impugned award has been passed without recording of any evidence. The impugned award is, therefore, liable to be set aside.

5. Learned counsel for respondent No.1 seeks remand of the matter back to the Commissioner, Employees' Compensation.

6. The appeal is allowed. The impugned award dated 27th April, 2015 is set aside and the case is remanded back to the Commissioner, Employees' Compensation. The Commissioner, Employees' Compensation is directed to record the evidence of both the parties and thereafter, pass a fresh order. The Commissioner, Employees' Compensation shall adjudicate the all the objections of the appellant including the objection of territorial jurisdiction.

7. The amount deposited by the appellant with the Commissioner, Employees' Compensation be refunded back to the appellant along with interest accrued thereon.

8. The parties shall appear before the Commissioner, Employees' Compensation on 28th August, 2018.

9. Pending application is disposed of.

10. The record of the Commissioner, Employees' Compensation be returned forthwith.

J.R. MIDHA, J.

JULY 19, 2018
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