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

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Date of Decision: 26th February, 2018

+ MAC.APP. 880/2017

ANURODH SINGH PAL

..... Appellant

Through: Mr. Satyam Sisodia and Mr. Manish
Awasthi, Advs.

versus

HIMANSHU & ANR

..... Respondents

Through: Mr. A.K. Rajgopal, Adv. for R1.
Mr. A.K. Soni, Adv. for R2.

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

1. The appellant has challenged the award of the Claims Tribunal whereby his claim petition for compensation has been dismissed.
2. On 21st December, 2013, the appellant was going in an EECO van. The appellant started vomiting in the van, when they reached IFFCO Chowk Flyover, whereupon the driver of the EECO van stopped the vehicle and parked the van on the side of the flyover by switching on the lights, when suddenly the offending vehicle No.DL-3CB-R-1946 came from behind and hit the EECO van which resulted in death of two persons and others suffered injuries. The appellant and his associate, Narender filed two separate claim petitions before the Claims Tribunal. The claim petition of Narender was allowed by the Claims Tribunal vide award dated 18th March, 2016 whereby compensation of Rs.1,54,922/- has been awarded to Narender. However, the

appellant's claim petition was dismissed by the Claims Tribunal on the ground that the driver of the offending vehicle No.DL-3CB-R-1946 has been acquitted by the learned Magistrate. Relevant portion of the impugned award is reproduced hereunder:-

"14. In view of the judgment dated 18/11/2016 passed by the Court of Ms. Jyoti Mehra, Ld. Judicial Magistrate First Class, Gurgaon District Court, Haryana whereby w.r.t. the FIR in question, the Ld. Magistrate after considering the evidence on record has held that the respondent No.1 herein was not guilty of driving the offending vehicle in a rash and negligent manner and accordingly has been pleased to acquit the respondent No.1 herein who was accused in the FIR of the offences punishable u/s 279/337/338/304A IPC, the Court hereby come to the conclusion that the respondent No.1 was not guilty of driving the offending vehicle in a rash and negligent manner and accordingly though the petitioner has suffered injuries but same was not on account of any cause on the part of respondent No.1.

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16. In view of the outcome of the Issue No.1, the petitioner is not entitled to any relief in the present petition filed u/s 166/140 of the MV Act as the petitioner has failed to prove that there was any negligent on the part of the Respondent No.1 w.r.t. the accident in question.

Accordingly, the present petition stands dismissed."

3. Learned counsel for the appellant urged at the time of the hearing that the principles relating to the trial of a civil case and the criminal case are different and a civil case cannot be dismissed on the ground that the accused has been acquitted in the criminal case. It is further submitted that the issue with respect to the negligence of the driver of the offending vehicle has

attained finality by the award passed by the Claims Tribunal of the case of Narender. It is further submitted that the just compensation be awarded to the appellant.

4. There is merit in the contentions of learned counsel for the appellant. The Claims Tribunal gravely erred in dismissing the claim petition of the appellant on the ground that the accused in the criminal case has been acquitted. The driver of the offending vehicle hit the stationary vehicle as well as persons standing around the stationary vehicle. This Court is satisfied that the driver of the offending vehicle was negligent. That apart, the issue with respect to the negligence of the driver of the offending vehicle has attained finality by the award passed in the case of Narender.

5. With respect to the just compensation, the appellant present in Court suffered simple injuries for which he had stitches and he took treatment for about 1½ months. The appellant has placed on record the bills totaling around Rs.13,000/-. The appellant remained on leave for a period of 55 days and did not get the salary for the said period. The appellant is awarded Rs.13,000/- towards expenditure on treatment, Rs.30,000/- towards pain and suffering and loss of amenities of life and Rs.20,000/- towards loss of income. The appellant is entitled to total compensation of Rs.63,000/-.

6. The appeal is allowed, the impugned award is set aside and the appellant is awarded compensation of Rs.63,000/- along with interest @ 9% per annum from the date of institution i.e. 14th July, 2014.

7. The appellant present in Court has produced his passbook of savings bank account No.33612354429, State Bank of India, Nirankari Colony, Pardhan Market Branch, Delhi, IFSC Code: SBIN0007627.

8. The respondent is directed to transfer the compensation amount to the

appellant's aforesaid savings bank account with State Bank of India within a period of four weeks from today.

9. Copy of this judgment be given *dasti* to learned counsels for the parties under signature of Court Master.

FEBRUARY 26, 2018
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J.R. MIDHA, J.

