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

+ **FAO 406/2017 & CM No.37521/2017**

GATEWAY RAIL FREIGHT LTD Appellant
Through: Mr.Atul Sahi, Adv.

versus

NISHA SHARMA & ORS Respondents
Through: Mr.Shekhar Agarwal, Adv. for R-1
to 4.
Ms.Archana Gaur, Adv. for R-5.

CORAM:
HON'BLE MS. JUSTICE REKHA PALLI

ORDER
% **25.04.2018**

Vide the present petition, the petitioner impugns order dated 18.09.2017 passed by the Motor Accident Claims Tribunal, Karkardooma Courts, Delhi in MAC No.525/2016, whereby his application under Order IX Rule 7 CPC has been rejected.

Mr.Atul Sahi, learned counsel for the petitioner, submits that the petitioner was the owner of the offending vehicle bearing No.HR-55G-5306 and when the said vehicle met with an accident on 30.01.2014, the petitioner was undoubtedly carrying out its business at 17, Ahluwalia Chambers, LSC Pushp Vihar, New Delhi, but on 15.02.2014 it had changed its registered address to 206-207, Southern Park, Saket District Centre, Saket, New Delhi. He draws my attention to the policy issued by respondent No.5 for the period 23.02.2013 to 22.02.2014 as also to the subsequent renewal of the policy for the

period 23.02.2014 to 22.02.2015. He submits that the aforesaid change in the petitioner's address was also duly reflected in the records of the insurance company i.e. respondent No.5, which fact has been overlooked by the Tribunal while rejecting the petitioner's application. He, therefore, contends that the Tribunal has rejected the petitioner's application without due application of mind.

Upon notice being issued, Mr.Shekhar Aggarwal, Advocate has appeared on behalf of respondent Nos.1 to 4 and Ms.Archana Gaur, Advocate has appeared for respondent No.5. Both the learned counsels for the respondents fairly do not oppose the petition.

In view of the petitioner's limited prayer for examining only two witnesses, Mr.Aggarwal submits that the aforesaid respondents would have no objection if the impugned order is set aside and the petitioner is permitted to join the proceedings pending before the Tribunal.

Accordingly, the impugned order is set aside and the petition is disposed of with a direction to the Tribunal to afford an opportunity to the petitioner to lead his evidence in respect of only two witnesses. It is made clear that the petitioner would not be permitted to cross-examine the witnesses whose evidence already stands concluded. The pending application also stands disposed of.

REKHA PALLI, J

APRIL 25, 2018/gm