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

+ C.R.P. 264/2017 and CM 44044/2017 and 44918/2017

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..... Petitioner

Through: Mr. Uday Shankar, Advocate

versus

SHAH ALAM & ORS

..... Respondents

Through: Mr. Ravi Sabharwal, Adv. for R-3

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **08.05.2018**

The third respondent has appeared in person through Mr. Ravi Sabharwal, Advocate.

The first and second respondents are not present. While the first respondent has not been served, the report on the process to second respondent has not returned. It is, however, stated by the petitioner through counsel and also the counsel for the third respondent (insurance company) that the first and second respondents are not contesting the claim case (MACP 29/17/10) which is pending before the Motor Accident Claims Tribunal, as is confirmed by copies of the proceedings of various dates, which have been filed.

The petitioner is a claimant in the above said case before the tribunal. By the impugned order dated 27.10.2017, the opportunity for his evidence had been closed for the reason the processes to witnesses sent by post had not returned. It is his grievance that the evidence which he requires to adduce includes record of treatment

taken from Kailash Hospital, Noida and another hospital in Chennai, the summons having been issued for securing the production of the said record and sent by post having not returned which default was beyond his control.

It is explained by the counsel for the petitioner that the claimant is in such a medical condition that he cannot travel beyond Delhi to serve the summons. But then, the proceedings recorded on 23.09.2017 reveal that request was made on his behalf that the processes be given *dasti* to be served through the brother of the petitioner. The counsel for the petitioner submits that, for some reason, the brother could not travel for Chennai and that it is essential to have the said records produced in evidence since that would confirm the expenditure incurred on the medical treatment. He submits that notwithstanding the fact that the case is old, he deserves full assistance from the tribunal for securing the presence of the witnesses, his request being that he may be given one more opportunity and fresh summons may be directed to be handed over to him to be taken *dasti* for being served at Noida and in Chennai through the aegis of local District Judges.

The counsel for third respondent submits no objection.

The petition is allowed. The impugned order is set aside. The Presiding Officer of the tribunal is directed to issue summons to the above mentioned witnesses and for the same to be handed over to the petitioner to be attempted to be served through the concerned District

Judges, the necessary communication for such purposes also to be simultaneously issued.

The petition and the applications filed therewith are disposed of in above terms.

R.K.GAUBA, J.

MAY 08, 2018

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