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

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Decided on: 29.11.2019

+ MAC.APP. 906/2019

DEEPAK KUMAR PANCHAL

..... Appellant

Through: Mr. Munish Kumar, Advocate.

versus

HARENDER SINGH & ANR (THE UNITED INDIA INSURANCE
COMPANY LTD)

..... Respondents

Through: Mr. Pankaj Seth, Advocate for
insurance company.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J. (Oral)

1. This appeal impugns the award of compensation dated 04.11.2019 passed by the learned MACT in MACT No. 919/2018 because the appellant's claim for compensation for injuries suffered by him and his uncle allegedly in a motor vehicular accident which occurred on 10.04.2018 had not been granted. It is the appellant's case that at the turning before the Hindon Bridge, while travelling on a motor-cycle bearing no. UP-17N 3742, they were hit by a vehicle, namely, TATA Canter Truck bearing No. DL 1LX 7495, which was coming at an extremely high speed and was being driven rashly and negligently.

2. One Mr. Brijpal, PW-2, was suddenly introduced as a witness in the case. He did not file any documents prior to the date of his giving the

deposition. Mr. Brijjal's only claim was that earlier in a similar accident, he got hurt. His reason for being present at the spot of the accident at the relevant time is unexplained. The learned counsel for the insurance company had extensively cross-examined the said witness and his testimony was found to be unreliable. Indeed the learned Tribunal itself had put many questions to the said witness, which were replied to unsatisfactorily. In the circumstances, the testimony of Mr. Brijjal, being the sole eye-witness to the accident, was disregarded. The impugned order has observed in this regard as under:

“(xiv). Last but not least PW2 claimed that he had seen the Canter coming at a very fast speed and near about 80-85 kmph and yet he was able to see the number of the truck at that stage, and when he was sitting in a crowded Magic Auto, is nearly incredible on the face of it. Even more unbelievable is the fact that though he was claiming to have seen the registration number, yet he had admittedly not seen the face of the driver. Both, the earlier claim and the later admission are not at par with each other and both cannot be correct. This witness admittedly did not render any help either to the injured nor he informed the police, For all the reasons above, he is clearly a planted witness.”

3. Interestingly, the three-wheeler vehicle, namely, TATA Magic Auto had a number of other passengers too, but they did not come forth as witnesses for the claimants. Inexplicably, the FIR was not lodged for 13 days after the occurrence of the said motor accident, and there is no

complaint made by the claimants against the police officer as to why the complaint was not lodged for 13 days.

4. Furthermore, the registration number of the alleged offending vehicle was not disclosed to the police for 13 days. If the persons were so injured, they would ordinarily have informed the police so that the offending vehicle could be traced out or apprehended.

5. The insurer had rightly raised the issue about the identity of the vehicle. It had contended that the insured vehicle was subsequently planted, only to raise a claim against the owner of the vehicle and the insurer.

6. The learned Tribunal in the impugned order has held as under:

“vii). Therefore, taking it upon themselves, Ld. Counsel for the insurance company by his cross-examination alongwith the assistance from the Court by way of Court queries, has brought it to the fore that it was highly doubtful that the Canter Truck was actually involved in the accident. A serious doubt has been created by the replies given in the cross-examination and the admissions elicited, as to whether the Canter Truck was probably falsely implicated later on.”

7. The conclusion of the learned Tribunal calls for no interference. The appeal is without merit. It is accordingly dismissed.

NAJMI WAZIRI, J

NOVEMBER 29, 2019

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