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

+ **MAC.APP. 368/2019 & CM APPL. 12318-12319/2019**

**NATIONAL INSURANCE CO LTD** ..... Appellant  
Through : Mr. D.K. Sharma, Adv.

versus

**KANCHAN ARORA & ORS** ..... Respondents  
Through : None.

**CORAM:**  
**HON'BLE MR. JUSTICE A. K. CHAWLA**

**ORDER**  
**15.03.2019**

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This appeal is the outcome of the award of Rs.70,000/- to the respondent No.1 towards the damage caused to her car bearing No. DL 10 CF 1011.

The sole submission of Mr. Sharma, Id. Counsel for the appellant is that though the Tribunal has awarded a sum of Rs.70,000/- towards the damage caused to the vehicle of the respondent No.1, the award of such amount is not founded on bills, duly proved in accordance with law.

Ld. Tribunal has dealt with such aspect in paras 16 to 18 of the impugned award, as follows :

**“Vehicle damage case of Kanchan Arora**

16. PW-3 Kanchan Arora stated that her car bearing No.DL 10 CF 1011 was parked in gali no.10 BRT Road, Madangir, DDA Flats, New Delhi. On 16.05.2016 at about 3:45 a.m. a car bearing no.DL 1N A 0118 (make Hyundai) being driven by respondent no.1 in a rash and negligent manner came and hit her parked car and her car got damaged. She further stated that she spent more than

Rs.2,50,000/- for repair of her said car and she was without the car for about one month which caused her great financial loss. She placed on record the Registration Certificate of the damaged vehicle Ex.PW1/2 and bills of the damages vehicle Ex.PW1/3.

During cross-examination she stated that she is the registered owner of the vehicle bearing no. DL 10 CF 1011. She further stated that at the time of accident, the vehicle was not insured. She further stated that she has no knowledge as to where the parking in which her vehicle was stationed was an authorized parking or not. She further stated that she parked her vehicle at a place where all the persons parked their vehicles. She was not issued any parking receipt by any person for parking her car. She admitted that since her vehicle was not insured, therefore, she had not claimed any amount. She further stated that she had not seen as which vehicle hit her parked vehicle causing damage to it. Further her vehicle got repaired in 1½ months. She does not remember when her vehicle was finally got repaired, though it took about 1½ months. She further stated that the repairer did not issue any job card prior to repair. Further, she had produced all the bills of the repair which were available with her. She admitted that she produced the bills which were issued in the month of October, 2016 by Deepak Motors, Dilshad Extn. Bhopura.

17. The facts in favour of the petitioner are that as per DAR her vehicle bearing no. DL 10 CF 1011 Ford Figo car was hit by the offending vehicle and got damaged. Mechanical inspection report of the car of the petitioner shows the alleged damages. Photographs as filed by the I.O. along with the DAR also verify the damages.

On the other hand the facts which are against the petitioners are that her car was not parked at an authorized place. Further, the bills are not proper and just a kind of kachcha bills. Further, she has not

*summoned the person who had issued the bills of repair. Had the petitioner called the person who had issued the bills, in cross-examination the bills would have been put into doubt.*

*18. Keeping a balanced view in mind, I am not inclined to grant the whole compensation as claimed by the petitioner and even not the amount of two bills as placed by the petitioner. Considering the whole facts, to the mind of the Tribunal, Rs.70,000/- would be reasonable as compensation to the petitioner towards damages of vehicle. I accordingly, award **Rs.70,000/-** to the petitioner”*

Though, it is true that the Tribunal has proceeded to assess the damages in its own discretion, the wisdom so exercised, is not totally unfounded. In doing so, the Tribunal took note of not only the *Kachha* bills produced by the claimant, but, also took note of the mechanical inspection report of the car as also the photographs, along with DAR. Surreptitiously enough, Mr. Sharma does not advert to the extent of damage inflicted to the car, which has actually been caused according to the appellant. Not a whisper thereto, has come to be made even in the appeal.

In the given circumstances therefore, it would suffice to say, the assessment of damages on preponderance of probabilities and the wisdom exercised by the Tribunal, does not require any interference. Appeal is therefore dismissed.

Statutory amount deposited by the appellant, if any, be refunded/released back to the appellant.

**A. K. CHAWLA, J**

**MARCH 15, 2019**

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