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

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Decided on: 05.09.2019

+ MAC.APP. 143/2018

KAMRUDDIN AND ORS

..... Appellants

Through: Mr. M.A. Inayati, Advocate.

versus

SUBHASH CHANDRA AND ORS (ORIENTAL INSURANCE CO.
LTD)

..... Respondents

Through: Mr. Pradeep Gaur, Advocate for R-3.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J. (Oral)

1. This appeal impugns the order of the learned MACT dated 06.11.2017, dismissing the appellants' claim petition for compensation under section 166 of the Motor Vehicles Act, 1988. It is the appellants-parents' case that their son was standing beside a road in a market place, when he was hit by the offending insured tractor bearing No.UP-80-BV-3730 on 28.02.2015 at about 5:30 pm. The accident took place near Agra. The injured was rushed to Delhi to LNJP Hospital, New Delhi, where he was declared "brought dead". In support of their claim, the appellants have led evidence through one eyewitness- Hamid and relied upon the DD Entry registered at Police Station Civil Lines, Delhi the very next morning i.e. on 01.03.2015. The DD entry reads as under:

"At about 8:00 A.M. it is reported that I SI along with Ct. Mukesh 2446/N after enquiring DD No. 3A came back to PS and it is submitted that one boy Faizan S/o Kamruddin R/o B-2/263, Nehru Vihar, Mustafabad, Delhi-94 aged 18 years was got admitted vide MLC No. 200977/15 of Trauma Center Hospital, Civil Lines, Delhi by his relatives Iqbal S/o Rafeeq R/o Rahul Nagar Phase Near Road Wali Masjid Rady Bagia, U.P. who is injured due to the accident caused to his motorcycle at Khadoli Chowk, who was declared brought dead by the doctor. Upon enquiry it was informed that one tractor trolley hit their motorcycle no. U.P. 80 CN 6074 in which one another injured Hameed S/o Islam is admitted there in Agra in JK Hospital and the tractor driver and the tractor was taken to the Police Station Khadoli and was being dealt by S.I Anil Dev. I, SI informed PS Khadoli Agra through GD No. 10 at 7:20 A.M and parted with all the necessary information to the IO. I, SI brought into the notice of ATO/SHO about all circumstances and SO PS Khandoli informed over telephone that the case is being registered and directed that the PM of the dead body be got done and the dead body be handed over to the relatives and all the relevant documents would be collected through the IO. Hence action U/S 174 Cr.P.C is initiated and the report is pressed.

Self written by SI."

2. After demise of the injured at Delhi, the Investigating Officer at Delhi sought information from the Police Station under whose jurisdiction the accident occurred.
3. What emanates from the above is that the offending vehicle bearing UP 80 CN 6074 which caused motor vehicular accident had been seized and two persons i.e. Hameed and Faizan were apprehended by the police at Police Station Khadoli, Agra (U.P). The said offending vehicle was identified by Police Station Khadoli, as a tractor bearing registration no. UP

80 BY 3730 and its trolley. An FIR was registered. A chargesheet was prepared against the accused. Criminal proceedings are still underway. The identity of the vehicle is not in doubt. The impugned order has declined the Award of compensation primarily on the ground that there was three days' delay in registration of the FIR. This Court is of the view that in the circumstances of the present case, where serious injuries had been caused to both the victims, one of whom was rushed to Delhi and was declared dead; the shocked and worried family and relatives of the victims would be least bothered about technical temporal affairs such as registration of an FIR. Prompt medical care and saving the life of the grievously injured, would be the only concern and priority in that difficult moment. All-the-more-so, when the victim had to be rushed, hundreds of kilometers away from the site of the accident to Delhi for the best possible medical care. Loss of the life of a young man in a motor vehicular accident, who was just about 19 years of age, would for his family be a difficult circumstance. There was a continuity in the sequence of events till the registration of the FIR which may have been registered later but nevertheless, a DD Entry was made on the very next day of the accident, i.e. roughly within 24 hours. The same cannot be treated as delay because it was occasioned by the natural response of his family to the first instance, to rush the injured to a hospital where he could get medical assistance.

4. In view of the above, the impugned order is set aside. The case is remanded to the learned Tribunal for adjudication of the claim. The parties shall appear before the learned MACT on 30.09.2019 and will request the learned MACT to dispose-off the matter expeditiously, preferably within 2

months, keeping in view the fact that the fatality happened on 28.02.2015 i.e. almost four and a half years ago.

5. The appeal is disposed-off in the above terms.

NAJMI WAZIRI, J

SEPTEMBER 05, 2019

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