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

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Decided on: 19.11.2019

+ MAC.APP. 887/2019, CM APPL. 49786/2019 & CM APPL. 49787/2019

REENA & ORS

..... Appellants

Through: Mr. Sunil Dahiya, Advocate.

versus

AMIT KUMAR & ORS (M/S UNITED INDIA ASSURANCE CO LTD)

..... Respondents

Through: Mr. Pankaj Seth, Advocate for R-3.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J (Oral)

1. This appeal impugns the award of compensation dated 20.03.2019 passed by the learned MACT in MACP No. 6888/16, which dismissed the Claim Petition of the claimants, on the ground that the testimony of eye-witness, namely, Mr. Deepak Kumar was not found to be reliable.

2. The Court would note that the said person was not mentioned anywhere as an eye-witness, his name is also not mentioned in the FIR. He suddenly without any earlier reference in the pleadings or the records appeared to depose in favour of the claimants, fifteen months after the occurrence of the motor accident. He was an absolute stranger to the

deceased and did not even live in the same village as the deceased. The accident occurred on 19.09.2016. He had deposed that he did not see anybody at the site of the motor accident when it happened. His deposition, *inter alia*, reads as under:-

“ 1. That on 19/09/2016 at about 5:30 P.M I was coming back from Sonipat, when I reached G.T Road Kundli near HSIDC Cut, Panipat Delhi Highway, then a Car bearing No-DL-1CL- 2295 driven by its driver at a very fast speed, rashly negligent and without caring the traffic came from Panipat side and hit the deceased. As a result of forceful impact he fell down on the road and sustained serious injuries.

2. This accident was caused due to the sole negligent driving of the driver of Car bearing No-DL-1CL-2295.

3. That a Criminal case was registered against the driver of the Car bearing No-DL-1CL-2295 at Police Station Kundli, Distt-Sonipat (HR) vide FIR No-325/2016 U/s-279/304A IPC.”

3. His cross-examination reads as under:-

“XXXXXXXXX by Sh. Manoj Kumar Verma, Advocate for R1 and 2.

I know he contents of my affidavit Ex. PW3/A. The number of the vehicle was DL 1CL 2295. The accident had occurred in the evening time at about 5 to 5.15 pm on 19.09.2016. I was present at the time of accident at spot. The offending vehicle was of silver colour. The offending vehicle was being driven in zigzag manner. It is wrong to suggest that deceased himself slipped and fallen down or that accident had occurred with the offending vehicle. The deceased was on foot. One other person was with the deceased. Mr. Kuldeep

(deceased) was alive after the accident and died later on. Driver was not caught on the spot. I did not accompany the deceased to hospital. I was not acquainted with the deceased prior to the accident. Police did not arrive in my presence at the spot. My statement was not recorded by the police. It is incorrect to suggest that I am deposing falsely or that I was not present at the spot.”

4. What emanates from the above is that Mr. Deepak Kumar suddenly appears out of blue and deposes in favour of the claimants. He does not even mention as to how far his so-called workplace was from the spot of the accident and what he did for a living. He neither knew the deceased or any details about him nor did he know any of his relatives. Furthermore, he did not even know Mr. Sunil, who took the injured to the hospital. There is no way in which Mr. Deepak Kumar could have been contacted by the claimants. He is possibly a person who interloped his testimony which has rightly not been relied on or accepted as being trustworthy by the learned Tribunal.

5. The appeal is without merit and is, accordingly, dismissed.

NAJMI WAZIRI, J

NOVEMBER 19, 2019

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