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

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Decided on: 20.09.2019

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MAC.APP. 383/2017

RAJ NARAIN JHA

..... Appellant

Through: Mr. A.K. Choudhary, Advocate.

versus

JAGDISH & ORS (M/S NEW INDIA ASSURANCE CO LTD)

..... Respondents

Through: Mr. J.P.N. Shahi, Advocate for R-3
and R-5.

Mr. R.S. Juneja, Advocate for R-4.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J. (Oral)

1. The appellant impugns the judgement dated 24.12.2016 passed by the learned MACT in MACT No. 108/2011 (new no. 14385/2015), which dismissed the appellant's claim for compensation on the ground that there was rashness and negligence on part of the appellant-claimant himself, as he was driving the truck on the wrong side of the road which resulted in the head-on-collision with another truck. In the circumstance, the learned Tribunal found no reason to grant compensation to the claimant under sections 166 & 140 of the Motor Vehicles Act, 1988.

2. The Court would note that in terms of the decision of this Court in *United India Insurance Co. Ltd. vs Rita Devi* in MAC APP. No. 256/2007 decided on 05.12.2014, wherein it has been held *inter alia*, that the decision of the learned Tribunal to convert a Claim Petition filed under Section 166 to under section 163A of the Motor Vehicle Act, was just and the same could not be faulted with. Therefore, in order to ensure that the claimant would not be rendered remediless, resulting in miscarriage of justice, the learned Tribunal ought to have considered the claim under section 163A of the Act and grant of compensation to the claimant under the principle of no fault liability.

3. Accordingly, the impugned order is set aside. The case is remanded to the learned Tribunal for consideration of the appellant's claim under section 163A of the M.V. Act, 1988. The parties shall appear before the learned Tribunal on 23.01.2020. The learned Tribunal is requested to endeavour to dispose-off the case preferably within a period of six months from the date when the case is next listed before it. The learned counsel for the parties assure the Court that they shall assist the learned Tribunal on every date when the case is so listed and shall not seek any adjournment.

4. The appeal is disposed off in the above terms.

NAJMI WAZIRI, J

SEPTEMBER 20, 2019

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