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

% *Decided on: 06.12.2019*

+ MAC.APP. 1111/2018 & CM APPL. No. 52384/2018, 52386/2018

TEJA SINGH

..... Appellant

Through: Mr. Rajender Singh, Adv.

versus

SUMAN & ORS (UNITED INDIA INSURANCE CO. LTD.

..... Respondents

Through: Mr. Ravi Sabharwal, Adv.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J (Oral)

1. This appeal impugns the award of compensation dated 04.06.2018 passed by the learned MACT in Suit No. 3887/16, on the ground that right of recovery granted to the insurer against the appellant is erroneous. The appellant contends that: i) he was not the registered owner of the offending vehicle, therefore, he could not be held liable for any such payment; ii) that the correct procedure would be to set aside the right of recovery and remand the case to the learned Tribunal for impleadment of the registered owner and to thereafter ascertain the fastening of liability upon the party concerned.

2. The learned counsel for the insurance company states that the appellant's ownership of the offending vehicle was never in doubt. Indeed, the appellant himself had so asserted in his reply to the claim petition as under:-

“15.

.....It is submitted that the respondent no.1 is the owner of vehicle No. DL1YA 8463 but the said vehicle was not offending vehicle.”

3. The learned Tribunal has found the said vehicle to be the offending vehicle and has dealt with this issue as under:

“19. In this case, petitioner No.1 while appearing into witness box made statement in consonance with the DAR and narrated the mode and manner of the accident. On the contrary, no evidence has been led by the driver. In Cholamandlam Insurance Company Ltd. Vs. Kamlesh 2009(3) AD-Delhi 310 it was held that if driver does not enter the witness box, an adverse inference can be drawn against him. Chargesheet u/s 279/468/471 IPC was filed against Virender Kumar. Even owner in his cross examination admitted that Virender was his driver and he was driving the offending vehicle at the time of accident. Investigating officer has placed on record attested copy of the FIR along with charge sheet and other relevant documents including site plan, seizure memo, mechanical inspection report, arrest memo, PM Report, medico legal report, policy of offending vehicle etc. In National Insurance Co. Vs. Pushpa Rana 2009 ACJ 287 Delhi it was laid down that completion of investigation and Filing of chargesheet are sufficient proof of negligence of the driver of the offending vehicle.”

(emphasis supplied)

4. The appellant has himself admitted that he was the owner of the vehicle. Therefore, for him to now claim or suggest that he was not the owner of the vehicle or the registered owner thereto, is an untenable argument and it is rejected.

5. The appeal is without merit. It, alongwith pending applications, is accordingly dismissed.

6. The statutory amount, alongwith interest accrued thereon, be deposited into the 'AASRA' Fund created by this Court for the treatment and rehabilitation of burn victims.

DECEMBER 06, 2019

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NAJMI WAZIRI, J

