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

% *Decided on: 17.12.2019*

+ MAC.APP. 768/2015 & CM APPL. 22779/2015

THE NEW INDIA ASSURANCE CO LTD Appellant

Through: Mr. Pankaj Seth, Advocate.

versus

RAMJI YADAV & ORS Respondents

Through: Mr. Aditya Shandilya, Advocate for
R-1 to R-3.

Mr. V.N. Sharma, Advocate for R-5
& R-6.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J (Oral)

1. This appeal impugns the award of compensation dated 09.09.2015 passed by the learned MACT in MACP No. 72/14, apropos fixation of liability upon the appellant on the ground that the driver of the offending vehicle was not clearly identified. The claimants had first alleged that one Mr. Yogender Kumar was driving the offending vehicle. However, during the course of the proceedings, the claimants found that the driver of the offending vehicle was actually Mr. Jagdamba Prasad s/o Mr. Hira Lal. The appellant contends that the identity of two persons suddenly changed. Therefore, the case of the claimants was doubtful right from the beginning.

2. According to the learned counsel for the claimants, the claimants were informed that the driver's name was Mr. Yogender Kumar. However, it was subsequently brought to their notice that the name of the said person was Mr. Jagdamba Prasad. In this regard, police officer-SI Uma Pati, had deposed that during the investigation it was found that Mr. Jagdamba Parkash was driving the offending vehicle at the time of the motor accident. Upon such information being brought to the notice of the claimants, an application had been moved in this regard to correct the name of the driver from Mr. Yogender Kumar to Mr. Jagdamba Prasad. The application was allowed. In all claim proceedings, it will be fair to implead and accord an opportunity to the actual parties concerned with the *lis*.

3. The Court would note that according to the police, the actual driver was Mr. Jagdamba Prasad. This fact and the actual name was not known to the claimants, who were already aggrieved by the unfortunate accident resulting in demise of their kin. Hence, the proceedings and liability against Mr. Jagdamba Prasad cannot be faulted. There is no error in the reasoning and conclusion of the learned Tribunal. The appeal is without merit and is, accordingly, dismissed.

4. The statutory amount, alongwith interest accrued thereon, be deposited into the 'AASRA' Fund created by this Court.

5. Interim orders, if any, stand vacated.

6. The Court is informed that the requisite amounts have been deposited before the learned Tribunal and 50% of the awarded amount has already been released to the claimants.

7. Let the remaining amount, alongwith interest accrued thereon, be released to the beneficiaries of the Award, in terms of the scheme of disbursement specified therein.

NAJMI WAZIRI, J

DECEMBER 17, 2019

RW

