

\$~17

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

%

Date of Decision: 22nd February, 2019

+ MAC.APP. 18/2018

SATISH KUMAR RANA Appellant

Through: Mr. S.N. Parashar, Advocate.

versus

RAM SINGH & ORS (UNITED INDIA
INSURANCE COMPANY LTD) Respondents

Through: Mr.Mirza Amir Baig, Advocate for
Mr.Sarfaraz Khan, Advocate for DTC
Mr.Sankar N. Sinha, Advocate for
United India Insurance Co. Ltd.

J U D G E M E N T (O R A L)

1. The appellant has challenged the award dated 21st September, 2017 whereby the Claims Tribunal dismissed the claim petition on the ground that the appellant failed to prove that he suffered injuries due to rash and negligent driving of respondent No.1.

2. On 05th February, 2011, the appellant was repairing the clutch of bus bearing No. DL-1PB-5412 when respondent No.1 turned on the ignition and moved the bus due to which the right hand of the appellant came in the moving engine which resulted grievous crush injuries. The appellant was removed to G.T.B. Hospital where the appellant remained admitted from 05th February, 2011 to 22nd February, 2011. The appellant was employed with DTC as Assistant Fitter and he suffered 85% permanent disability in relation to his right upper and right lower limb. The appellant appeared in the witness box as PW-1 and deposed that he was repairing the clutch of the

offending bus on 05th February, 2011 at about 2:15 P.M. when respondent No.1 moved the bus in a rash and negligent manner due to which right hand of the appellant came in the moving engine and was badly crushed. The appellant deposed that he suffered 85% permanent disability of right hand because of negligence of respondent No.1. DTC, respondent No. 2 did not examine any witness to rebut the evidence led by the appellant. The Claims Tribunal held that the appellant failed to prove that the accident occurred due to the rash and negligent driving of respondent No.1.

3. Learned counsel for the appellant submits that the appellant duly proved the rash and negligence of respondent No.1 which resulted in 85% permanent disability to the appellant. It is submitted that no evidence was led by DTC to rebut the evidence of appellant. Learned counsel for respondent No.3 submits that the accident occurred inside the DTC Depot and respondent No.3 is not liable to pay the compensation to the appellant under the policy.

4. This Court is of the view that accident occurred due to rash and negligent driving of respondent No.1. The appellant appeared in the witness box and deposed that accident occurred due to rash and negligent driving of respondent No.1. Whereas respondent no.1 did not appear in the witness box to rebut the same. In that view of the matter, the impugned order is liable to be set aside.

5. The appeal is allowed and the impugned award dated 21st September, 2017 is set aside. It is held that the accident occurred due to the rash and negligent driving of respondent No.1.

6. Since the Claims Tribunal has not given any finding with respect to quantum of compensation as well as liability of respondent No.3, this case is

remanded back to the Claims Tribunal for fresh adjudication with respect to the quantum of compensation as well as with respect to the liability of respondent No.3 under the policy.

7. The parties shall appear before the Claims Tribunal on 26th March, 2019. The Claims Tribunal shall fix the date for hearing and pass a fresh award.

8. The Claims Tribunal shall adjudicate the quantum of compensation. The Claims Tribunal shall also adjudicate whether respondent No.3 is liable under the policy in question.

9. The record of the Claims Tribunal is returned back forthwith.

10. Copy of this judgment be given *dasti* to counsel for the parties under the signature of the Court Master.

FEBURARY 22, 2019
ak

J.R. MIDHA, J.

भारतमेव जयते