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

+ CM(M) 650/2023

SIMA DEVI SINGH & ORS. Petitioners

Through: Mr. C.M. Patel, Adv.

versus

THE BRANCH MANAGER, THE ORIENTAL INSURANCE
COMPANY LTD. & ANR. Respondents

Through: Mr. R.K. Tripathi, Adv. for
respondent No.1.

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

ORDER

12.03.2024

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1. By way of present petition, petitioners are invoking the supervisory jurisdiction of this Court under Article 227 of the Constitution of India and also assailing the impugned order dated 01.06.2022 passed by the learned Presiding Officer, MACT, South District, Delhi in MACT No.197/2021 titled as '*Sima Devi Singh & Ors. v. Ahri Ajay Kumar Singh & Ors.*'.

2. Learned counsel appearing for the respondent/Insurance Company submits that there is no illegality committed by learned Tribunal in passing the order dated 01.06.2022, as the accident itself is under a cloud and it is a case where there is a complete manipulation and fabrication on the part of the claimants in submitting the claim.

3. It would be expedient to reproduce the order dated 11.03.2022 passed by the learned Tribunal, which reads as under:



“Present: None for the petitioner.

Ld. Counsel for the respondent no. 1 is also not present.

Sh. Neeraj Kumar Mishra, Id. Counsel for the insurance company.

V/N has been filed on behalf of the insurance company. Record perused.

Considering the fact that the respondent no. 1 was never served in this case and V/N has been filed on behalf of the respondent no. 1, so he was directed to appear on today i.e., 11.03.2022. However, it is utter surprising that neither the petitioner nor the respondent no. 1 counsel has appeared. Even, the compliance has not been made.

Before making any comment, it is required to go through the facts of the present petition. This petition has been filed by the petitioner counsel for compensation under Section 140 and 166 of the Motor Vehicle Act for the death of the deceased in the accident occurred on 30.11.2020 at Madhya Pradesh, PS Janch, District Riva, Madhya Pradesh. As the petitioner were resident of Riva, accident was occurred in Riva and even, respondent no. I was also residing in Riva, therefore, this court had fixed this case for consideration on three or four occasions. However, on pursuance of the counsel of the petitioner, this court had issued notice to the respondents. However, it is very utter surprising that on the very first date, V/N has been filed without issuance the summon to the respondent no. 1.

Ld. Counsel for the insurance company has also stated that the facts of the present FIR has also created doubt because the accident was occurred on 30.11.2020. Injured was expired on 06.12.2020 as per the post mortem report. FIR was registered on 28.01.2021 after the death of the injured. Before this, registration of the unnatural death was reported. In the unnatural report, there was unknown vehicle. In the FIR recorded after one and half months, it was again lodged against the unknown vehicle. Final report was filed on 31.01.2021 after having recorded the statement of few witnesses. Within three days, investigation has been completed. While the death have been occurred noting down the statement that the deceased was hit by some unknown vehicle. Today, he has also placed on record the several copies of the order passed in another case where the same counsel which represented the petitioner herein has filed the same nature of case and got filed the written statement of his own by the petitioner counsel.

Considering the above facts that today neither the petitioner has appeared nor respondent no.1 inspite of directions issued has appeared, this petition stands dismissed.”



4. It appears that subsequently, the claimants moved an application under Order IX Rule 4 CPC seeking restoration of the petition and the same came to be dismissed vide order dated 01.06.2022.

5. A perusal of the impugned order dated 01.06.2022. would show that the learned Tribunal found that the petitioner had not assigned any sufficient cause for non-appearance on 11.03.2022 and in the process, it went on to discuss the merits of the case as well and observations which were recorded vide previous order dated 11.03.202.

6. At the outset, the impugned order dated 01.06.2022 cannot be sustained in law. Although *prima facie* there are certain doubts as to the factum of the accident; and whether or not the vehicle in question has been implicated in collusion with the registered owner of the offending vehicle or otherwise by fabricating the entire contents of the FIR, the claim petition could not have been summarily thrown in the manner done by the learned Tribunal. There were available various options to the learned Tribunal to conduct a preliminary inquiry and satisfy itself about the tenability of the claim, for instance by calling the main claimant and examining him/her in terms of Order X of the CPC or under its inherent powers.

7. Certainly, the learned Tribunal could not have embarked on determination on the merits of the case merely based on the averments and/or dissecting the documents placed on record in the manner that it did. It cannot be overlooked that by and large it is the people from very impoverished background who are involved in fatal accidents as in the instant matter. The ignorant and the impoverished classes of the people have no any say in the manner investigation is done by the



Police. Sometimes even lawyers appearing for such parties commit certain unsavory blemishes and misconduct, about which the less said is better.

8. In view of foregoing discussion, the present petition is allowed. The matter is remanded back to the learned Tribunal with directions to restore the matter to its original number and stage, and commence further proceedings in the matter as per law and decide the claim petition of the petitioners/claimants in accordance with law.

9. The parties shall appear before the learned Tribunal for further proceedings and trial as per the law on 08.04.2024. Nothing contained in this order shall tantamount to an expression of opinion on the merits of the case.

10. The present revision petition is disposed of accordingly.

DHARMESH SHARMA, J.

MARCH 12, 2024/ck