



2025:DHC:2722



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of Decision: 17.04.2025*+ MAC.APP. 259/2022
ANITA & ORS.

.....Appellants

Through: Mr. Anshuman Bal, Ms. Shweta Garg
and Ms. Bharti Bassist, Advocates

versus

HDFC ERGO GEN INS CO LTD & ORS.Respondents

Through: Ms. Niyati, Advocate for R-1

CORAM:**HON'BLE MS. JUSTICE TARA VITASTA GANJU****TARA VITASTA GANJU, J.: (Oral)**

1. The present Appeal has been filed on behalf of the Appellant under Section 173 of the Motor Vehicle Act, 1988 impugning the judgment dated 18.05.2022 [hereinafter referred to as "Impugned Order"] passed by the learned Presiding Officer, MACT-01 Central, Tis Hazari Courts, Delhi. By the Impugned Order, the Claim Petition as filed by the Appellants has been dismissed.

2. Learned Counsel appearing on behalf of the Appellants submits that although the Claim Petition was listed for hearing for the first time on 22.01.2020, no Notice was issued. The learned Tribunal, on that date, proceeded to frame a preliminary issue in the matter, which was whether the suit is bad for misjoinder of parties.

2.1 It is contended that on several dates thereafter including the period of the ensuing Covid, the matter was heard only on the preliminary issue framed by the Court. No Notice was issued to the Respondent on this date either. The learned Tribunal on 16.12.2021 gave a finding that the Claim



2025:DHC:2722



Petition should be listed in the category of “doubtful/suspicious”.

2.2 Learned Counsel appearing on behalf of the Appellant further submits that the fact that the accident did take place, cannot be said to be doubtful. The police enquiry has been held and there is a report of the Police Station, Karol Bagh, New Delhi in that behalf, and charge sheet was filed in the matter.

2.3 Lastly, it is contended that no enquiry into the Claim Petition was conducted by the learned Tribunal as is requisite in law. It is submitted that the learned Tribunal erred in dismissing the Claim Petition filed without even issuing Notice to the Respondents.

3. Learned Counsel appearing on behalf of the Respondent No. 1 affirms these facts and submits that the Respondent did not have an opportunity to contest the matter before the learned Tribunal since no notice was issued.

4. Both parties jointly submit that the matter may be remanded to the learned Tribunal for adjudication.

5. Accordingly, the Impugned Order is set aside. In view of the submissions made, this Court deems it apposite to remand the matter for fresh adjudication to the learned Tribunal. The learned Tribunal shall examine the matter *de novo*.

6. The parties shall appear before the learned Tribunal on 07.05.2025.

7. The parties shall act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

APRIL 17, 2025/g.joshi/jn

Click here to check corrigendum, if any