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

+ CM(M) 923/2010

RAMDEV

..... Petitioner

Through: Mr. Kundan Kumar, Advocate

versus

HARJEET KAUR & ORS

..... Respondents

Through: Ms. Isha Khanna, Advocate for R1 to R3

CORAM:

HON'BLE MR. JUSTICE G.P. MITTAL

ORDER

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28.02.2013

1. A claim petition under Section 166 read with Section 140 of the Motor Vehicles Act was preferred by Respondent Nos. 1 to 3 against the driver (Abbas Khan) and the owner (Ramdev) of vehicle No.HYG-3074, which was involved in a fatal accident which took place on 28.09.1998. The claim petition came to be decided by the Motor Accident Claims Tribunal (the Claim Tribunal) by an order dated 16.02.2002 whereby a compensation of ₹ 4, 83,000/- in all was awarded. An application under Order 9 Rule 13 CPC was moved by the present Petitioner (Respondent No. 2 in the claim petition) on the ground inter alia that he was not served with the notice of the claim petition. The Application was allowed by the Claims Tribunal by an order dated 10.04.2007. The present Petitioner was allowed to prove his plea that he was not the owner of the vehicle. A perusal of the record shows that on 10.04.2007, an Application under Order 1 Rule 10 CPC was moved by Respondent Nos. 1 to 3 herein by virtue of which the registered owner of the vehicle (Bhim Sain) was also impleaded.
2. The order dated 12.03.2010 which is a subject matter of the instant petition was passed by the Claims Tribunal which purports to decide a Review

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Application filed by the Petitioner. In fact no review Application had been filed by the petitioner. This is now also verified by the Claims Tribunal and a report in this regard has been received. In fact, by the order dated 12.10.2003, the Claims Tribunal purported to decide about the liability of the Petitioner herein. I may notice that dealing with the petition not only the Claims Tribunal mistook it as a review application, but also lost sight of the fact that the liability of the registered owner (Bhim Sain) who was Respondent No.5 before the Claims Tribunal, was to be decided. The impugned order in the circumstances cannot be sustained. Since the claims petition stood revived as against the present Petitioner and Respondent No.5 (Bhim Sain) alleged to be the registered owner of the vehicle, the Claims Tribunal was expected to determine their liabilities.

3. The impugned order dated 12.03.2010 is therefore, set aside. The parties are directed to appear before the Claims Tribunal on 18.03.2013. Since it is an old case and the Respondents (Claimants before the Claims Tribunal) are unable to reap fruit of the decree passed against the driver as he was declared a proclaimed offender, it is expected that the Claims Tribunal will show some urgency in disposal of claim petition and shall endeavour to decide the same within six months from the date of the appearance of the parties.

4. Dasti to the parties.


G.P. MITTAL, J.

FEBRUARY 28, 2013

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