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

**Date of Decision: 31<sup>st</sup> March, 2016**

+ **MAC.APP. 262/2016 & CM Nos.11707-11708/2016**

**DELHI TRANSPORT CORPORATION**

..... Appellant  
Through Mr. Jyotindra Kumar, Adv.

versus

**UNITED INDIA INSURANCE CO LTD & ORS**

..... Respondent  
Through None

**CORAM:  
HON'BLE MR. JUSTICE R.K.GAUBA**

**JUDGMENT**

**R.K.GAUBA, J (ORAL):**

1. On accident claim petition of the second respondent Master Rohit, registered as suit No.905/09, the motor accident claims tribunal (tribunal) by judgment dated 01.06.2015 awarded compensation in the sum of ₹12,18,000/- in his favour directing the appellant the Delhi Transport Corporation (DTC) to pay the said amount with interest within the period specified. DTC, noticeably, being the registered owner of the bus which had statedly caused the accident resulting in injuries to Master Rohit had been impleaded as second respondent in the proceedings before the tribunal. From the documents placed on record, it appears that DTC, by an application later moved Section 152 of the Code of Civil Procedure, 1908 (CPC) pointed out that an amount of ₹50,000/- had already been paid by it to the claimant (Master Rohit) as compensation. By another application

simultaneously moved, it also pointed out to the tribunal that the bus in question was duly insured with United India Insurance Company Ltd. (first respondent herein) and therefore, the liability to pay should have been fastened on it. The tribunal considered both the said applications and allowed them by common order dated 07.09.2015, while allowing ₹50,000/- to be deducted from the awarded compensation. At the same time it directed the insurance company to pay the amount of ₹12,18,000/- to the claimant. The appellant herein (DTC) moved another application seeking modification of the order dated 07.09.2015 mainly to point out that the amount of ₹50,000/- had been deposited in the court of Metropolitan Magistrate in the context of proceedings arising out of FIR No.150/09 which had been registered respecting the motor vehicular accident which was subject matter of the claim petition. This application was dismissed by order dated 29.09.2015 with observation that similar application had already been decided modifying the impugned order/judgment.

2. In the aforementioned facts and circumstances, notice need not even be issued to the respondents. It is clear that the tribunal has not taken care of the interest of the appellant herein with regard to the deposit of ₹50,000/- which it claims to have made with the Court of Metropolitan Magistrate in 2009. The tribunal, instead of mechanically allowing the two applications by order dated 07.09.2015 should have first inquired into the claim as to whether the amount of ₹50,000/- was deposited with the court of Metropolitan Magistrate which needs to be adjusted. Further, it required to be inquired as to whether the said amount had already been released to the claimant (Master Rohit) or was still lying with the Metropolitan Magistrate awaiting orders for disbursal. If the said amount has already been received

by the claimant, the insurer could not have been asked to pay the entire awarded amount without such amount of ₹50,000/- to be adjusted. Conversely, if the said amount has not been released so far, the same required to be refunded by appropriate arrangement to be made.

3. The tribunal is directed to reconsider the request of the appellant and pass all necessary orders.

4. The appeal with all pending applications is disposed of in above terms.

**MARCH 31, 2016**  
VLD



**R.K. GAUBA**  
**(JUDGE)**