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

+ **MAC.APP. 394/2024 & CM APPL. 43808/2024**

NATIONAL INSURANCE CO LTDAppellant

Through: Ms. Hetu Arora Sethi, Advocate.

versus

MRS RUPALI PANDY & ORS.Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

% **02.08.2024**

CM APPL. 43809/2024 (Exemption).

Exemption allowed subject to just exceptions.

The application stands disposed of.

MAC.APP. 394/2024 & CM APPL. 43808/2024 (Stay).

1. The instant appeal under Section 173 of the Motor Vehicles Act, 1988 has been filed on behalf of the appellant seeking the following reliefs:

- “a) Set aside the award dated 22.04.2024 passed in MACT No. 184/2021 by Ms. Charu Gupta, Ld. Presiding Officer, Motor Accident Claims Tribunal-01 (South-East), Saket Courts, New Delhi.; and*
b) Any such order(s) as deem fit.”

2. Learned counsel appearing on behalf of the appellant submitted that the impugned award is bad in law since the learned Tribunal erroneously allowed the claim by failing to take into consideration the fact that the name of the alleged eye-witness (PW-3) was neither mentioned in the chargesheet



nor any statement was recorded by the police under Section 161 of the Code of Criminal Procedure, 1973. It is further submitted that the learned Tribunal also erred by overlooking the fact that the alleged eye witness did not provide any document to establish that he was at the place of accident. Therefore, it is submitted that the balance of convenience lies in favour of the appellant and prayed that the impugned award may be stayed.

3. Heard.

4. Issue notice of the appeal and the application of stay to respondents through all permissible modes on filing PF within one week.

5. This Court is of the considered view that *prima facie* the balance of convenience lies in favour of the appellant and prejudice would be caused to the appellant in the event the impugned award is not stayed.

6. Since the matter requires consideration, subject to the appellant's depositing the entire compensation amount along with the interest from the date of the institution of the claim as per the impugned award before the Registrar General of this Court within a period of six weeks, the operation of the impugned award dated 22nd April, 2024 shall remain stayed till the next date of hearing. The amount so deposited by the appellant shall be invested in an interest bearing FDR in an auto renewal mode.

7. List on 27th September, 2024 before Joint Registrar (Judicial).

CHANDRA DHARI SINGH, J

AUGUST 2, 2024

rk/ryp

[Click here to check corrigendum, if any](#)