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

+ **MAC.APP. 585/2016**

ICICI LOMBARD GENERAL INSURANCE CO LTD..... Appellant

Through: Mr. Vishnu Mehra, Advocate

versus

SATISH CAHNDRA GUPTA & ORS Respondents

Through: Mr. Naresh Gupta, Adv. for R-1.
Mr. Rahul Bakshi, Advocate for R-2
& 3.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **25.08.2017**

The claim petition in which the impugned judgment was passed in favour of the first respondent has been prosecuted by his wife Neena Chandra Gupta, she having appeared as witness (PW-8) during the inquiry before the Tribunal, the claimant being comatose ever since the date of accident. Amongst other grounds taken by the insurance company on which the liability has been fastened, questions are raised about the computation of damages under the heads of physiotherapy treatment, attendant charges, and for future medical treatment including medicines and attendant charges, *inter alia*, on the ground that the witnesses produced to substantiate the expenses earlier incurred, have spoken about they having been paid their dues in cash. Though in the cross-examination of one of the witnesses (physiotherapist) he sought to claim that he had disclosed the wages

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earned in his income-tax return, the insurance company contesting the proceedings, did not press home any further inquiry calling upon the witness to come with such income-tax return. But, in her cross-examination, PW-8 sought to explain the expenditure which is in substantial amount of money, by referring, amongst others, to certain fixed deposit receipts, besides reliance on mediclaim. There is no clarity, however, on the facts in that regard. The learned counsel for the first respondent submits the wife of the claimant is ready and willing to discover on oath further facts to substantiate and bring clarity on above aspects.

The affidavit with supportive document shall be filed within three weeks, as is sought.

As requested by the counsel for the insurance company, the facts and documents to be discovered on oath, shall account for the entire expenditure claimed to be incurred not only on physiotherapy or accupuncture treatment or the medical treatment, nursing assistance etc. but also on the indoor or outdoor treatment under various heads. A copy of the affidavit shall be made available to the counsel for the appellant in advance.

Be listed on 10th November, 2017, for final hearing.

R.K.GAUBA, J.

AUGUST 25, 2017

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