



\$~2 to 10

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

% **Date of decision: 14th May, 2024**

2

+ C.R.P. 153/2022 & CM APPL. 42513/2022

NARENDRA GUPTA & ORS. Petitioners

Through: Mr.Anil Goel, Mr.Pranjal
Sharma and Mr.Aditya Goel,
Advocates.

versus

PARAMJIT SINGH & ORS. Respondents

Through: Mr.Pankaj Gupta, Advocate.

3

+ C.R.P. 154/2022 & CM APPL. 42515/2022

REKHA GUPTA Petitioner

Through: Mr.Anil Goel, Mr.Pranjal
Sharma and Mr.Aditya Goel,
Advocates.

versus

PARAMJIT SINGH & ORS. Respondents

Through: Mr.Pankaj Gupta, Advocate.

4

+ C.R.P. 155/2022 & CM APPL. 42517/2022

JAGRIT GUPTA Petitioner

Through: Mr.Anil Goel, Mr.Pranjal
Sharma and Mr.Aditya Goel,
Advocates.

versus

PARAMJIT SINGH & ORS. Respondents

Through: Mr.Pankaj Gupta, Advocate.



2024: DHC: 3951



5

+

C.R.P. 156/2022 & CM APPL. 42519/2022

HARISH GUPTA

..... Petitioner

Through: Mr.Anil Goel, Mr.Pranjal
Sharma and Mr.Aditya Goel,
Advocates.

versus

PARAMJIT SINGH & ORS.

..... Respondents

Through: Mr.Pankaj Gupta, Advocate.

6

+

C.R.P. 157/2022 & CM APPL. 42521/2022

NARENDRA GUPTA

..... Petitioner

Through: Mr.Anil Goel, Mr.Pranjal
Sharma and Mr.Aditya Goel,
Advocates.

versus

PARAMJIT SINGH & ORS.

..... Respondents

Through: Mr.Pankaj Gupta, Advocate.

7

+

C.R.P. 158/2022 & CM APPL. 42526/2022

ANKITA GUPTA

..... Petitioner

Through: Mr.Anil Goel, Mr.Pranjal
Sharma and Mr.Aditya Goel,
Advocates.

versus

PARAMJIT SINGH & ORS.

..... Respondents

Through: Mr.Pankaj Gupta, Advocate.

8

+

C.R.P. 159/2022 & CM APPL. 42530/2022



MITHLESH GUPTA Petitioner
Through: Mr.Anil Goel, Mr.Pranjal
Sharma and Mr.Aditya Goel,
Advocates.

versus

PARAMJIT SINGH & ORS. Respondents
Through: Mr.Pankaj Gupta, Advocate.

9

+ C.R.P. 160/2022 & CM APPL. 42532/2022

PRIYA GUPTA Petitioner
Through: Mr.Anil Goel, Mr.Pranjal
Sharma and Mr.Aditya Goel,
Advocates.

versus

PARAMJIT SINGH & ORS. Respondents
Through: Mr.Pankaj Gupta, Advocate.

10

+ C.R.P. 161/2022 & CM APPL. 42534/2022

ANMOL GUPTA Petitioner
Through: Mr.Anil Goel, Mr.Pranjal
Sharma and Mr.Aditya Goel,
Advocates.

versus

PARAMJIT SINGH & ORS. Respondents
Through: Mr.Pankaj Gupta, Advocate.

CORAM:
HON'BLE MR. JUSTICE DHARMESH SHARMA

DHARMESH SHARMA, J. (ORAL)

1. This common order shall decide the above noted civil revision petitions instituted by the above noted petitioners under Section 115 of



Code of Civil Procedure, 1908¹ assailing the impugned order dated 26.04.2022 passed by learned Presiding Officer, Motor Accident Claims Tribunal-01, Tis Hazari Courts, Central District, Delhi² whereby each of the above noted claim petitions filed by the claimants in terms of Section 166 read with Section 140 of MV Act³ has been dismissed on the ground that the version of the accident as pleaded in the claim petitions is doubtful and also for non-compliance of Section 158(6) of the MV Act. Each of the above noted petitions raises common questions of law and facts and can be conveniently disposed of together.

2. It would be appropriate to clarify that C.R.P. No.153/2022 is a claim petition which has been filed by the husband and two children of the deceased Smt.Geeta Devi whereas each of the other claim petitions are filed seeking compensation for the injuries suffered in the accident.

3. Shorn of unnecessary details, each of the claimants are members of the same family who were travelling in the offending bus bearing registration No. UP-17AT-4406, from Red Fort, Delhi at around 10.50 PM to Amritsar.

4. Since, the facts and circumstances of the case are common in each of the claim petitions, thus for a common decision on the instant civil revision petitions, C.R.P. No.153/2022 is reckoned to be the lead case. It would be apposite to refer to the impugned order dated

¹ CPC

² Presiding Officer

³ Motor Vehicles Act



26.04.2022 in *toto* so as to understand the background of the present civil revisions:

“(1) The present claim petition has been filed in respect of an accident which took place on 13.07.2019 at 2:45 PM near Rakba Village Sanwala, GT Road, District Kurukshetra, Haryana.

(2) It is pleaded that on 12.07.2019 the petitioner along with his other family members boarded a bus bearing No. UP-17AT-4406 from Red Fort, Delhi at around 10:50 PM to Amritsar. It is further pleaded that the driver of the bus namely Paramjit Singh (respondent no.1) was driving the said bus rashly, at high speed, in a zig-zag manner on which the passengers cautioned the driver to drive the bus carefully and requested him to follow the traffic guidelines. At about 2:45 AM the respondent no.1 tried to overtake another vehicle, bumped the bus to the side of the curb and into the railing of the divider of the road as a result of which the bus over-turned. While the passengers were trying hard to evacuate, suddenly the bus caught fire and Smt. Geeta Devi got burnt alive and expired at the spot itself whereas the other passengers suffered grievous injuries in the accident. Pursuant to the accident, an FIR No. 306/2019 under Sections 279/304-A/337/338 IPC PS Thanesar Sadar, Kurukshetra was registered.

(3) It is evident from the record that the respondent no.1 Paramjit Singh (Driver of the offending vehicle) is a resident of VPO Jhanjoti, Tehsil Ajnala, Amritsar-143001; the respondent no.2 Mangat Ram Mehta (Owner of the offending vehicle) is a resident of Village Gurha Singh Chak Shaman, Jammu-181206 and the office of the respondent no.3 Oriental Insurance Co. Ltd. is situated at Jammu180001. The present claim petition has been filed by the petitioner claiming that he is a resident of Karol Bagh, Delhi falling within the jurisdiction of this Tribunal.

(4) I may note that the accident in the present case had taken place on 13.07.2019 whereas the claim petition (incomplete without material documents) has been filed on 22.04.2022 i.e. after Two Years and Eleven Months of the accident in question. The certified copy of the charge-sheet filed before the criminal court at Kurukshetra, Haryana has not been placed on record. Only photocopy of the FIR has been filed along with the copies of Aadhar Card; Driving License of the respondent no.1; copy of Registration Certificate of offending vehicle; copy of Cover Note of the Insurance Policy of the offending vehicle; copy of the



medical bills and copy of photographs of the offending vehicle have been placed on record. There is no information with regard to any charge-sheet being filed by the investigating agency.

(5) Of late, it has been noticed that some Advocates have started filing petitions of outstation matters and that too in bulk before different courts by stretching and expanding the jurisdiction of Motor Accident Claim Tribunals on the pretext that the office of the insurance company is situated within the jurisdiction of the court. In a similar practice, in Uttar Pradesh a large number of Advocates were found involved in filing of fake claims pleas and in this regard cognizance was taken by the Hon'ble High Court of Allahabad against such malpractices and an SIT was constituted to investigate the fraud and in this regard the case of Shafiq Ahmed Vs. ICICI Lombard General Insurance Co. Ltd. Special Leave Petition (Civil) No. 1110 of 2017, CC No. 23628 of 2016 arising out of impugned final judgment and order dated 07.10.2015 in Crime No. 49 of 2015 passed by the Hon'ble Court of Jurisdiction of Allahabad, Lucknow Bench, is relevant. In the said case the Hon'ble Supreme Court has taken a note of the Status Report filed by the SIT in its order dated 16.12.2021 according to which out of total 1376 cases of suspicious claims received by the SIT, after completing enquiry of 247 cases of suspicious claims till date, total 198 accused persons have been prima facie found guilty of cognizable offence and accordingly total 92 criminal cases have been registered in various districts. In fact that total 92 criminal cases in various districts have been registered till date, of which, 28 advocates have been named as accused persons in 55 cases and Charge Sheets against 11 advocates in 25 cases have been forwarded to the concerned trial Court till date.

(6) In the above case, the Hon'ble Supreme Court passed a detailed order dated 05.01.2017 reference of which was also made in the order dated 16.09.2021 wherein the Hon'ble Apex Court expressed its serious concerns of the alarming situation in which fake and fabricated claims may be filed under Motor Vehicles Act in all States/ Union Territories pursuant to which directions were issued and the Registrars of all the High Courts were directed to ascertain from the Motor Accident Claim Tribunals such doubtful cases which prima facie may require investigation and to prevent filing of such fabricated cases.

The relevant portion of the same is quoted as under:

“..... From the order passed by the High Court of Judicature at Allahabad, it was noticed that 64 fake claim cases were pending in various Districts in the State of U.P. It was also found and noticed that 29 fake claim cases were decided in which



compensation of Rs. 1.23 Crores has been paid and claims for over Rs. 6 Crores are still pending. This Court noted that the situation is really alarming and similar scenario cannot be ruled out elsewhere in other States/Union Territories also. Therefore, this Court directed to issue notice to all the States/Union Territories and Insurance Companies as to what steps can be taken to rule out the filing of the fake cases and what remedial measures can be taken. This Court also directed to issue notice to all the High Courts through Registrars to ascertain from MACTs such doubtful cases which prima facie may require investigation and to prevent filing of such fabricated cases....”.

(7) It is necessary to mention here that in the case of Shafiq Ahmed Vs. ICICI Lombard General Insurance Co. Ltd. (Supra) vide order dated 16.12.2021 the Hon'ble Supreme Court while dealing with large number of claim petitions involving fraud and fake claims, has taken a serious note of the malpractices and the modus-operandi in claim petitions where large scale siphoning of the insurance amount is involved while instituting fake compensation petitions, which observations I quote as under:

“..... 7. We have also heard at length Shri Atul Nanda, learned Senior Advocate and Shri Vishnu Mehra, learned Advocate appearing on behalf of the two insurance companies and learned counsel appearing on behalf of the State of Uttar Pradesh/SIT on the modus operandi of the advocates for filing fake cases under Motor Vehicles Act and Workmen Compensation Act. Separate notes have been filed pointing out the modus operandi in instituting the fake compensation petitions. Some of the modus operandi adopted are as under:

- i) Non-road accident injury-death converted into road accident claims;
- ii) fraudulent implantation of vehicle;
- iii) false implantation of driver;
- iv) claimant implantation;
- v) multiple claims at various for a at different territorial locations for compensation out of injury/ death caused arising out of the same accident. Often the claim applications are filed both before various MACT Tribunals as well as



the authorities under the Employees Compensation Act, 1923;

vi) fake/fabricated insurance policies; and

vii) fake/ fabricated income documents/ medical documents for exaggerated compensation.

7.1 Investigating Officer of SIT has also filed a short note on modus operandi in instituting fake compensation petitions, which are based on rich experience during investigation/ enquiry of the Criminal Cases/ FIRs/ Complaints, which are as under:

1. CASES OF HIT AND RUN

□ Such road accidents which are occurred from unknown vehicles, alleged eyewitnesses are prepared therein, on the basis of their affidavit/statements, facts are brought in the light

showing accident committed by some other insured vehicle and petition is instituted against owner/driver/insurance company of the aforementioned vehicle.

□ In the cases of such road accident which have been committed by unknown vehicles, for the purpose of institution of the compensation petitions, in a well designed planning, documents related to vehicle/driver are obtained from some advocates and documents of such vehicles/driver used in some other compensation petitions/cases are used in institution of false petitions.

□ Such road accidents which are occurred from some unknown vehicles, in that accidents are shown to have been committed by such vehicles which are old and their vehicle owners remain first registered owners. Advocates purchase such aforementioned vehicles as old vehicles, they do not get such vehicles registered in their own names whereas the actual/registered owners of those vehicles have already died.

Despite of death of original owner, fake General Power of Attorneys are executed/prepared in the names of such deceased vehicle owners through their companions advocates. Aforementioned vehicles are shown in such road accident, which were occurred from



unknown vehicles. Aforementioned vehicles have been shown in accident in many such cases and compensations petitions have been instituted.

□ In the cases of such road accidents wherein First Information Reports are registered against unknown vehicles and when those unknown vehicles are not traced and local Investigating Officers submit their Final Report in the cases before the Hon'ble Courts. In such accidents if a person has died while travelling in those vehicles and second person has injured, then holding that injured person himself to be driver of the aforementioned vehicle, showing his negligence, by impleading as opposite party to the insurance company of his own vehicle for receiving compensation, compensation petitions are also filed for receiving amount of compensation.

2. CASES OF KNOWN VEHICLES WITHOUT INSURANCE

□ If road accident is occurred with known vehicle and not insured at that time, in connivance with owner or driver of other insured vehicle in place of that vehicle, compensation petitions are instituted by showing aforementioned road accident of the said insured vehicle.

3. CASES OF FICTIONAL ACCIDENT AND FALSE PETITIONS

□ Such false compensation petitions have also come into light wherein name and address of the petitioner could not be ascertained and imaginary story is created on behalf of such petitioner and false Claim petitions are instituted.

4. CASES RELATED TO CONNIVANCE OF VEHICLE OWNER/VEHICLE DRIVER/ADVOCATE

□ For the purpose of earning illegal money, some actual vehicle owners and actual drivers of vehicles in connivance with advocates, submits registration certificates of their vehicles and Driver Licences in the unknown motor accident cases for filing fake petitions.

5. IMPLEADING NAME AND ADDRESS OF FAKE PERSONS IN ACTUAL ACCIDENTS



□ Persons of fake names and addresses showing as drivers/cleaners in place of actual and correct injured persons (driver/cleaner) involved in the actual accident cases, compensation petitions are instituted in the W.C.A. courts by showing them injured in the aforementioned accidents.

6. CASES RELATED TO HANDICAPPED/ DECEASED PERSONS DUE TO OTHER REASONS

□ During course of enquiry/investigation, such fake compensation petitions have also come into light wherein petitioner has become handicapped due to some other reason (like chopping off hand from thrasher machine), and second copy of fake handicapped certificates of their being disabled/handicapped obtained again showing date of accident after date of fake accident and fake compensation petitions have also been instituted.

□ Despite not being injured in the road accidents, after death or injured for any other reasons, his family members or he himself showing him or that person to be the driver/cleaner/labourer who died or injured, compensation petitions are instituted in fake manner.

7. CASES RELATED TO FILING SAME CASE IN MORE THAN ONE COURTS

□ In one road accident, wherein a person has died or injured, his family members or he himself submits compensation petition in the M.A.C.T. court related to aforementioned road accident.

If decision of the court is not in his favour, then the same petitioner changes the story and again submits his petition before the W.C.A. court (Workmen's Compensation Act).

□ After institution of compensation related to a road accident in a court and after receiving its compensation amount, again same accident is shown with other vehicle which is insured with other insurance company and second Claim petition is instituted in the W.C.A. court of any other district for receiving compensation amount again.

8. CASES RELATED TO AFFIXING PHOTOGRAPH OF A SAME PERSON IN



THE COMPENSATION AMOUNT CHEQUE DISTRIBUTION REGISTER IN MORE THAN ONE PETITIONS

□ Some compensation petitions were instituted in the W.C.A. Court in the names of different persons. After judgement of the aforementioned court, photograph of the same person is affixed in more than one case/petition, on the Cheque Distribution Register for receiving cheque related to compensation amount and compensation amount was received and thereafter, entire aforementioned amount was got transferred by the concerned advocate in his own bank account or in the bank accounts of his family members.

9. CASES TO GET THE PETITIONS DISMISSED AFTER TRANSFER OF FAVOURING DEPUTY LABOUR COMMISSIONER, RESUBMITTING THE PETITIONS AT HIS NEWLY POSTED PLACE

□ During investigation/enquiry of the compensation petitions, it is also found that petitions related to occurrence of accidents instituted in the W.C.A. court of concerned District. When Deputy Labour Commissioner of W.C.A. court of aforementioned District transferred to some other district, then some advocates of aforementioned district get their compensation petitions dismissed, and thereafter they instituted new petitions again in aforementioned district where the then Deputy Labour Commissioner was transferred by showing fake address in the petitions.

10. INSTITUTION OF PETITIONS IN OTHER DISTRICT INSTEAD OF INSTITUTING PETITIONS IN THE DISTRICT OF ACCIDENT SPOT/PLACE

□ During investigation/enquiry of the compensation petitions, it is also found that some compensation petitions were not instituted in the court of district of place/spot of accident, rather they were instituted in the court of other district by mentioning only temporary address instead of mentioning original address of the petitioner. It is also pertinent to mention here that this temporary address also remains incomplete.



11. CASES RELATED TO FAKE VAKALATNAMA

□ During investigation/enquiry of the compensation petitions related to road accidents, this fact has also come into light that actual/main advocate who has filed the claim petition, does not submit his own Vakalatnama in the concerned court, he submits Vakalatnama on behalf of such Advocate, who does not file the compensation petitions by mentioning his mobile number on the compensation petitions.

□ During investigation/enquiry of the compensation petitions related to road accidents, this fact has also come into light that advocate who has submitted compensation petition in the concerned court, he mentioned name of such fake person in place of name of Advocate, whose whereabouts could not be ascertained. Whereas such case was pursued by the advocate who submitted this petition in camouflage manner. ...”.

(8) It cannot be ignored, that it was after the Allahabad High Court and the Hon'ble Apex Court took cognizance of the fake and fraudulent claims, that there has been sudden spurt of filing of claim

petitions in Motor Accident Claim Tribunal in Delhi relating to accidents which have taken place in other States i.e. Haryana, Uttar Pradesh etc. It is this which is a serious concern making it obligatory for the Tribunals in Delhi to carefully scrutinize these cases so as to rule out any foul play.

(9) In this regard, reference is made to the case of Jai Prakash Vs. M/s. National Insurance Co. Ltd. reported in 2010 (2) SCC 607 wherein the Hon'ble Apex Court has reaffirmed the mandate of the

statute to be meticulously followed [which has now been reaffirmed in the case of Bajaj Allianz General Insurance Co. Ltd. Vs. Union of India & Ors. in Writ Petition (Civil) No. 534/2020 vide orders dated 16.03.2021 & 16.11.2021], relevant portion of which is quoted as under:

“..... 4.2) The Legislature tried to reduce the period of pendency of claim cases and quicken the process of determination of compensation by making two significant changes in the Act, by Amendment Act 54 of 1994, making it mandatory for registration of a motor accident claim within one month of receipt



of first information of the accident, without the claimants having to file a claim petition. Sub-section (6) of section 158 of the Act provides:

“As soon as any information regarding any accident involving death or bodily injury to any person is recorded or report under this section is completed by a police officer, the officer-in-charge of the police station shall forward a copy of the same within thirty days from the date of recording of information or, as the case may be, on completion of such report to the Claims Tribunal having jurisdiction and a copy thereof to the concerned insurer, and where a copy is made available to the owner, he shall also within thirty days of receipt of such report, forward the same to such Claims Tribunal and insurer”.

Sub-section (4) of Section 166 of the Act reads thus:- "The Claims Tribunal shall treat any report of accidents forwarded to it under sub-section (6) of section 158 as an application for compensation under this Act".

Rule 150 of Central Motor Vehicle Rules, 1989 prescribes the form (No.54) of the Police Report required to be submitted under section 158(6) of the Act. 4.3) This Court in *General Insurance Council v. State of A.P.* [2007 (12) SCC 354] emphasised the need for implementing the aforesaid provisions.

This Court directed:

"It is, therefore, directed that all the State Governments and the Union Territories shall instruct all police officers concerned about the need to comply with the requirement of Section 158(6) keeping in view the requirement indicated in Rule 150 and in Form 54, Central Motor Vehicles Rules, 1989. Periodical checking shall be done by the Inspector General of Police concerned to ensure that the requirements are being complied with. In case there is non-compliance, appropriate action shall be taken against the erring officials. The Department of Road Transport and Highways shall make periodical verification to ensure that action is



with his usual thoroughness and commitment has examined the issues and submitted a series of reports and has also made several suggestions for consideration. He has also referred to and relied on a series of zealous directions issued by a learned Single Judge of the Delhi High Court to expedite and streamline the adjudication of motor vehicle claims and disbursement of compensation.

7. Having considered the nature of the problems and taking note of the several suggestions made by the learned Amicus Curiae and after hearing, we propose to issue a set of directions to the police authorities and Claims Tribunals. We also propose to make some suggestions for implementation by Insurance Companies and some suggestions for the consideration of the Parliament and the Central Government.

Directions to Police Authorities

8. The Director General of Police of each State is directed to instruct all Police Stations in his State to comply with the provisions of Section 158(6) of the Act. For this purpose, the following steps will have to be taken by the Station House Officers of the jurisdictional police stations:

(i) Accident Information Report in Form No. 54 of the Central Motor Vehicle Rules, 1989 ('AIR' for short) shall be submitted by the police (Station House Officer) to the jurisdictional Motor Vehicle Claims Tribunal, within 30 days of the registration of the FIR. In addition to the particulars required to be furnished in Form No. 54, the police should also collect and furnish the following additional particulars in the AIR to the Tribunal:

- (i) The age of the victims at the time of accident;
- (ii) The income of the victim;
- (iii) The names and ages of the dependent family members.

(ii) The AIR shall be accompanied by the attested copies of the FIR, site sketch/mahazar/photographs of the place of occurrence, driving licence of the driver,



insurance policy (and if necessary, fitness certificate) of the vehicle and postmortem report (in case of death) or the Injury/Wound certificate (in the case of injuries). The names/addresses of injured or dependant family members of the deceased should also be furnished to the Tribunal.

(iii) Simultaneously, copy of the AIR with annexures thereto shall be furnished to the concerned insurance company to enable the Insurer to process the claim.

(iv) The police shall notify the first date of hearing fixed by the Tribunal to the victim (injured) or the family of the victim (in case of death) and the driver, owner and insurer. If so directed by the Tribunal, the police may secure their presence on the first date of hearing.

9. To avoid any administrative difficulties in immediate implementation of sections 158(6) of the Act, we permit such implementation to be carried out in three stages. In the first stage, all police stations/claims Tribunals in the NCT Region and State Capital regions shall implement the provisions by end of April 2010. In the second stage, all the police stations/claims Tribunals in district headquarters regions shall implement the provisions by the end of August 2010. In the third stage, all police stations/Claims Tribunals shall implement the provisions by the end of December, 2010. The Director Generals shall ensure that necessary forms and infrastructural support is made available to give effect to Section 158 (6) of the Act.

10. Section 196 of the Act provides that whoever drives a motor vehicle or causes or allows a motor vehicle to be driven in contravention of the provisions of Section 146 shall be punishable with imprisonment which may be extended to three months, or with fine which may extend to Rs. 1000/-, or with both. Though the statute requires prosecution of the driver and owner of uninsured vehicles, this is seldom done. Thereby a valuable deterrent is ignored. We therefore direct the Director



Generals to issue instructions to prosecute drivers and owners of uninsured vehicles under Section 196 of the Act.

11. The Transport Department, Health Department and other concerned departments shall extend necessary cooperation to the Director-Generals to give effect to Section 158(6).

Directions to the Claims Tribunals 12. The Registrar General of each High Court is directed to instruct all Claims Tribunals in his State to register the reports of accidents receive under Section 158 (6) of the Act as applications for compensation under Section 166 (4) of the Act and deal with them without waiting for the filing of claim applications by the injured or by the family of the deceased. The

Registrar General shall ensure that necessary Registers, forms and other support is extended to the Tribunal to give effect to Section 166 (4) of the Act.

13. For complying with section 166(4) of the Act, the jurisdictional Motor Accident Claims Tribunals shall initiate the following steps:

(a) The Tribunal shall maintain an Institution Register for recording the AIRs which are received from the Station House Officers of the Police Stations and register them as miscellaneous petitions. If any private claim petitions are directly filed with reference to an AIR, they should also be recorded in the Register.

(b) The Tribunal shall list the AIRs as miscellaneous petitions. It shall fix a date for preliminary hearing so as to enable the police to notify such date to the victim (family of victim in the event of death) and the owner, driver and insurer of the vehicle involved in the accident. Once the claimant/s appear, the miscellaneous application shall be converted to claim petition. Where a claimant/s file the claim petition even before the receipt of the AIR by the Tribunal, the AIR may be tagged to the claim petition.



(c) The Tribunal shall enquire and satisfy itself that the AIR relates to a real accident and is not the result of any collusion and fabrication of an accident (by any 'Police Officer - Advocate - Doctor' nexus, which has come to light in several cases).

(d) The Tribunal shall by a SUMMARY ENQUIRY ascertain the dependent family members/legal heirs. The jurisdictional police shall also enquire and submit the names of the dependent legal heirs.

(e) The Tribunal shall categorise the claim cases registered, into those where the insurer disputes liability and those where the insurer does not dispute the liability.

(f) Wherever the insurer does not dispute the liability under the policy, the Tribunal shall make an endeavour to determine the compensation amount by a summary enquiry or refer the matter to the Lok Adalat for settlement, so as to dispose of the claim petition itself, within a time frame not exceeding six months from the date of registration of the claim petition.

(g) The insurance companies shall be directed to deposit the admitted amount or the amount determined, with the claims tribunals within 30 days of determination. The Tribunals should ensure that the compensation amount is kept in Fixed deposit and disbursed as per the directions contained in General Manager, KSRTC v. Susamma Thomas [1994 (2) SCC 176].

(h) As the proceedings initiated in pursuance of Section 158(6) and 166(4) of the Act, are different in nature from an application by the victim/s under Section 166(1) of the Act, Section 170 will not apply. The insurers will therefore be entitled to assist the Tribunal (either independently or with the owners of the vehicles) to verify the correctness in regard to the accident, injuries, age, income and dependents of the deceased victim and in determining the quantum of compensation.



14. The aforesaid directions to the Tribunals are without prejudice to the discretion of each Tribunal to follow such summary procedure as it deems fit as provided under Section 169 of the Act. MANY TRIBUNALS INSTEAD OF HOLDING AN INQUIRY INTO THE CLAIM BY FOLLOWING SUITABLE SUMMARY PROCEDURE, AS MANDATED BY SECTION 168 AND 169 OF THE ACT, TEND TO CONDUCT MOTOR ACCIDENT CASES LIKE REGULAR CIVIL SUITS. THIS SHOULD BE AVOIDED. THE TRIBUNAL SHALL TAKE AN ACTIVE ROLE IN DECIDING AND EXPEDITIOUS DISPOSAL OF THE APPLICATIONS FOR COMPENSATION and make effective use of Section 165 of the Evidence Act, 1872, to determine the just compensation....”

(10) Now coming to the present case, on the basis of the claim petition, limited number of documents placed on record, certain glaring aspects have emerged which are as under:

□ That the accident in question had taken place on 13.07.2019 at 2:54 PM and the FIR was registered at Police Station Thanesar Sadar, Kurukshetra, Haryana on the same date i.e. 13.07.2019 at 11:30 PM. The said FIR was registered on the basis of complaint of Narender Kumar Gupta (present petitioner) who had alleged that he along with his wife Mithlesh Gupta, daughters Ankita & Priya, brother Harish Kumar, Bhabhi Rekha Gupta, nephew Jagrit Gupta, Anmol Gupta and mother Smt. Geeta Devi were going to Amritsar in a bus bearing No. UP-17-AT-4406. It has been alleged that the driver of the bus was driving the bus at a very high speed, rashly and negligently and when they reached near Village Sanwala, GT Road, District Kurukshetra, Haryana, the driver of the bus who was intoxicated at that time, hit the bus in the divider as a result of which the bus turned over and all the passengers sustained injuries. According to Narender Kumar Gupta, while the passengers were trying hard to evacuate, the bus caught fire and his mother Smt. Geeta Devi was burnt alive and expired at the spot itself whereas the other passengers suffered grievous injuries in the accident. Therelevant portion of the statement of Sh. Narender Kumar Gupta is as under:



“..... Jo bus no. UP-17-AT-4406 ka chaalak apni bus ko badi tez raftari gaflat laparvahi se chla raha tha. Jisko maine va dusri sawariyon ne kayi bar samjhaya lekin vah naam pata namallom chaalak bus ko gaflat vah laparvahi se chalata raha. Jo bus ke chaalak ne nasha bhi kiya hua tha. Jab aaj dinank 13.07.2019 ko samay karib 2.45 ASM par rat ko bus ka chaalak nashe ke halat me tez raftari gaflat laparvahi me chalata hua Pratapgarh More se aage Rakba Gaon Saanwla, GT road, Nazdik Kongstore Resort thoda pehle pahuncha to bus chaalak ne bus ko gaflat se GT Road ke divider se takra diya. Jo divder se takrane ke bad bus GT Road par hi palat gayi va sawariyan niche utarne lagi to kuch der baad bus me aag lag gyi. Jo bus me aag lagne par bus ke andar aag bujhane ka koi yantr nahin tha. Jo is accident me lagi choton ke karan va jalne ke karan meri mata Geeta Devi ki moka part hi maut ho gayi va merei bhabhi ki behen Kusum ko baayen kandhhey me fracture aaya hai....”.

The above written complaint made by Narender Kumar Gupta, on the basis of which the present FIR was registered, has not been placed on record.

That the present claim petition has been filed after Two Years and Eleven Months of the accident in question.

That the certified copy of the charge-sheet has not been filed. The only documents placed on record are the photocopy of FIR; copy of Aadhar Card; copy of Driving License of the respondent no.1; copy of Registration Certificate of offending vehicle; copy of Cover Note of the Insurance Policy of the offending vehicle; copy of the medical documents and copy of photographs of the offending vehicle. In fact, there is no information on record whether any charge-sheet has been filed by the Investigating Agency before the competent court or Kurukshetra, Haryana or not. The entire record has been withheld from this Court/ Tribunal which is liable to be read against the petitioner.

That the first information of accident i.e. the Daily Diary/ General Diary regarding the accident has not been placed on record and apparently concealed since this document would reveal the first information regarding the history of accident.



That the various documents i.e. the statements of witnesses recorded under Section 161 Cr.P.C.; Case Diaries; Seizure memo of the bus; Mechanical Inspection Report etc. have not been placed on record and concealed for which an adverse inference is likely to follow.

That there is absence of material on record to confirm the satisfactory compliance of provisions of Section 158(6) of Motor Vehicles Act. Neither the status of the Criminal Case instituted before the concerned court at Kurukshetra, Haryana, Order dated 26.04.2022 Page No. 17 of 20 has been placed on record nor the status of the proceedings in compliance of provisions of Section 158(6) of Motor Vehicles Act (before the competent Court/ Tribunal) has been placed before this Tribunal [Reference is made to the judgment in the case of Jai Prakash Vs. National Insurance Co. Ltd. reported in 2010 (2) SCC 607 Para 12].

That intimation of accident to Claims Tribunal and Insurance Company within 24 hours of the accident have been withheld [Section 158(6) of Motor Vehicles Act].

That investigations of Road Accident by the Investigating Agency have been withheld.

That Driver's & Owner's Form and verification have been withheld (as per the initial report the driver was unknown).

That Site Plan (Form -VIII), Mechanical Inspection Report (Form-IX); Verification Report (Form X) and report under Section 173 of Cr.P.C. have been withheld.

That the certified copy of the MLC/ Postmortem Report has not been placed on record and only photocopies have been filed.

That the Mechanical Inspection Report which could confirm the technical defect or the rashness and negligence of driver of the bus, has been withheld.

(11) Going by the pleadings of the petitioner and the FIR, it was the driver of the bus who hit the bus with the divider as a result of which the bus over-turned and when the passengers were evacuating, there was a blast in the bus. No doubt, two persons expired in the accident in question whereas others sustained injuries and the FIR bearing No. 206/2019 was registered at Police Station Thanesar Sadar, Kurukshetra, Haryana under Section 304-A/337/338 IPC yet there is no information with regard to any Final Report/ ChargeSheet being filed the Investigating Agency.

(12) The petitioner is stated to be a resident of E-16/622, Padam Singh Road, Bapa Nagar, Karol Bagh, Delhi – 110005 and this Court/ Tribunal has the jurisdiction to try the present petition.



However, the manner in which the present claim petition has been filed after Two Years and Eleven Months of the accident in question and that too without placing on record the certified copy of the Final Report/ Charge-Sheet and other relevant documents i.e. first DD/ GD;

Statements of witnesses recorded under Sections 161 Cr.P.C.; Mechanical Inspection Reports; Seizure Memo of the bus etc. raises a suspicion in the mind of the Court/ Tribunal regarding the correctness of the version placed before the Tribunal. I may note that it is the duty of the Claims Tribunal to elicit the truth relating to genuineness of the claims and relevant facts.

(13) I may also note that vide order dated 22.04.2022 this Court had made specific observations to the effect that the certified copy of the charge-sheet, statements of witnesses along with the case diaries

had not been filed nor there was any information regarding the compliance of Section 158 (6) of Motor Vehicles Act. Despite the same, the necessary details have not been furnished for which an adverse inference is drawn.

(14) It is not open for this Court/ Tribunal to carry out a parallel trial and give any findings on facts, on the basis of incomplete material, since the same is likely to come in the way of trial of the criminal case pending before the Kurukshetra Courts, Haryana. I am now informed by the Reader attached to the Court that as per the information available on the e-courts portal, the criminal case is still pending before the Court of Ld. ACJM, Kurukshetra, Haryana which is now listed on 21.11.2022. For reasons best known to the petitioner, the said information has also been withheld by the petitioner.

(15) This being the background, the present Claim Petition is hereby Dismissed.

(16) File be consigned to Record Room.”

ANALYSIS AND DECISION

5. Having heard learned counsels for the parties present and upon perusal of the record, this Court unhesitatingly finds that the impugned order is unconscionable, absolutely unfair and cannot be sustained in law.



6. It is stated by each of the claimants supported by their respective affidavits that the claim petitions were filed by way of e-filing on 14.03.2022 upon which an e-filing number was generated, and accordingly the petitions were accepted by the e-filing portal on 01.04.2022. The case was then marked to the concerned learned Tribunal and it is stated that the counsel for the claimants was regularly inquiring from the concerned Tribunal but when the matter came for consideration before the Court on 22.04.2022, there was no appearance on behalf of the petitioners because the Court staff had informed them that the matter is listed for hearing on 26.04.2022, and eventually on that day that the impugned order came to be passed.

7. This Court finds considerable merits in the submissions advanced by the learned counsel for the petitioners that the learned Tribunal did not even afford an opportunity to them to place on the judicial record the relevant certified copies of the criminal case against the driver of the offending bus. The least learned Tribunal should have done was to afford some reasonable time to the petitioners/claimants to place on record the certified copies of the relevant documents.

8. It is a well known legal idiom that '*Justice hurried is justice buried*' and that is what the learned Tribunal did in this matter when it took an unconscionable step of even doubting the version of the incident as pleaded by the claimants in the claim petition, which was a triable issue.

9. Insofar as the issue as to whether or not any claim petition had been filed at Kurukshetra, Haryana within the jurisdiction of which the motor accident had occurred, it is borne out from the record that each



2024:DHC:3951



of the claimants submitted on affidavit that they have not instituted any petition anywhere else. Apparently, each of the claimants are permanent resident of Delhi and there was no issue as to the territorial jurisdiction of the learned Tribunal. Lastly the non-compliance of Section 158(6) of MV Act on the part of the Investigating Officer cannot be prejudice the petitioners/claimants in pursuing their claim petitions independently as per the law.

10. In view of the foregoing discussion, the impugned order dated 26.04.2022 is hereby set aside. The matter is remanded back to the learned Tribunal for a fresh hearing and proceedings/trial as per law. The applicants/petitioners shall place on the record all relevant documents on or before next date of hearing. The parties shall appear before the learned Tribunal for further hearing on 03.06.2024.

11. A copy of this order be placed in each of the above noted civil revision petitions. Nothing contained herein shall tantamount to an expression of opinion on the merits of the case.

12. A copy of this order be also sent to the learned Tribunal for necessary compliance.

DHARMESH SHARMA, J.

MAY 14, 2024

VLD