Most Urgent/Out at once

OFFICE OF THE PRINCIPAL DISTRICT & SESSIONS JUDGE (HQ): DELHI

No. 4354-4444/Genl./HCS/2023 Dated, Delhi the 31 JAN 2023

31 JAN 2023

Sub: Judgment dated 15.12.2022 passed by Hon'ble Supreme Court of India in Civil Appeal No. 9322/2022 in FAFO No. 3303/2018 titled "Gohar Mohammad Vs. Uttar Pradesh State Road Transport Corporation & Ors".

A copy of the letter bearing no. 619-631/DHC/Gaz/G-2/Judgment/2023 dated 25.01.2023 received from Hon'ble High Court of Delhi, New Delhi and a copy of Judgment dated 15.12.2022 passed by Hon'ble Supreme Court of India in the subject matter is circulated for information and necessary compliance to : -

1. All the Ld. Judicial Officers posted in Central District, Tis Hazari Courts, Delhi.
2. The Ld. Registrar General, Hon'ble High Court of Delhi, New Delhi for information.
3. PS to the Ld. Principal District & Sessions Judge (HQs), Tis Hazari Courts, Delhi for information.
4. The Chairman, Website Committee, Tis Hazari Courts, Delhi with the request to direct the concerned official to upload the same on the Website of Delhi District Courts.
5. The Director (Academics), Delhi Judicial Academy, Dwarka, New Delhi for information as requested vide letter no.DJA/Dir.(Acd)/2019/4306 dated 06.08.2019.
6. Dealing Assistant, R&I Branch for uploading the same on LAYERS.
7. For uploading the same on Centralized Website through LAYERS.

31/01/23

(RAKESH PANDIT)
Officer-in Charge, Genl. Branch, (C)
Addl. District & Sessions Judge,
Tis Hazari Courts, Delhi.

Encl.: As above.

IN THE HIGH COURT OF DELHI AT NEW DELHI

619 – 651

No. /DHC/Gaz/G-2/Judgment/2023 2147 Dated 25th January, 2023.

From:

The Registrar General,
High Court of Delhi,
New Delhi-110003.

To,

1. The Principal District & Sessions Judge (HQ), Tis Hazari Courts Complex, Delhi.
2. The Principal District & Sessions Judge (South), Saket Courts Complex, New Delhi.
3. The Principal District & Sessions Judge (North-West), Rohini Courts Complex, Delhi.
4. The Principal District & Sessions Judge (New Delhi), Patiala House Courts Complex, New Delhi.
5. The Principal District & Sessions Judge (East), Karkardooma Courts Complex, Delhi.
6. The Principal District & Sessions Judge (South-East), Saket Courts complex, Delhi.
7. The Principal District & Sessions Judge (North), Rohini Courts Complex, Delhi.
8. The Principal District & Sessions Judge (South –West), Dwarka Courts Complex, New Delhi.
9. The Principal District & Sessions Judge-cum-Special Judge (PC Act) (CBI), RACC, New Delhi.
10. The Principal District & Sessions Judge (Shahdara), Karkardooma Courts Complex, Delhi.
11. The Principal District & Sessions Judge (North-East), Karkardooma Courts Complex, Delhi.
12. The Principal District & Sessions Judge (West), Tis Hazari Courts Complex, Delhi.
13. The Principal Judge (HQ), Family Courts, Dwarka, New Delhi.

Sub: Judgement dated 15.12.2022 passed by Hon'ble Supreme Court of India in Civil Appeal No. 9322/2022 in FAFO No. 3303/2018 titled "Gohar Mohammad Vs. Uttar Pradesh State Road Transport Corporation & Ors.

Sir/ Madam,

I am directed to request you to kindly download the Judgement dated 15.12.2022 passed by Hon'ble Supreme Court of India in Civil Appeal No. 9322 of 2022 in FAFO No. 3303/2018 titled "Gohar Mohammad Vs. Uttar Pradesh State Road Transport Corporation & Ors" from the official website of Supreme Court of India and circulate the same amongst all the Judicial Officers working under your respective control for information and necessary compliance.

Yours faithfully,

(S.S Bhalnagar)
Joint Registrar (Gazette-II)
for Registrar General.

Genl. GR.
5
P. 2315 (Hqrs.)
27/1/23

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.9322 OF 2022
[ARISING OUT OF SPECIAL LEAVE PETITION (C) NO. 32448 OF 2018]

Gohar Mohammed ...Appellant

Versus

Uttar Pradesh State Road Transport Corporation & others ...Respondent(s)

J U D G M E N T

J.K. Maheshwari, J.

Leave granted.

2. The instant appeal has been filed assailing the final order dated 06.09.2018 passed by the High Court of Allahabad in First Appeal from Order No. 3303 of 2018, vide which the appeal preferred by the appellant against the award dated 04.05.2018 passed by the Motor Accident Claims Tribunal (for short '**MACT**') in MACP No. 1107 of 2012 has been dismissed. MACT allowed the claim petition and

awarded a compensation of Rs. 31,90,000/- (Thirty-one lacs and ninety thousand only) in favour of respondent Nos. 6, 7 and 8 (legal representatives of deceased and hereinafter referred to as '**claimants**') to be paid by respondent No. 5 (**Insurance Company**), with further direction to recover the same from appellant (hereinafter referred as **owner**) who was saddled with liability.

3. Facts briefly put are that, on the date of accident, i.e., 29.07.2012, the deceased was 24 years old and working as Managing Director at DRV Drinks Pvt. Ltd. While he was returning from factory to residence, his car was hit from behind by a bus owned by appellant on the by-pass road near Sanhwali village (U.P.). The deceased sustained severe injuries and died on the way to hospital. FIR was lodged against the driver as well as owner of the offending vehicle and on 19.01.2012, claim petition was filed by claimants before MACT seeking compensation of Rs. 4,19,00,000/- (Four crores and nineteen lacs only) under various heads.

4. The MACT vide order dated 04.05.2018, allowed the claim petition and awarded a total sum of Rs. 31,90,000/-

alongwith 7% interest. While computing the loss of dependency, the annual income of the deceased was accepted as Rs. 3,09,660/- after making deduction towards personal expenses, multiplier of 18 was applied. It was held that the vehicle was not being operated as per the terms of permit and was in violation of terms and conditions of insurance policy, therefore the owner of the offending vehicle was held liable to pay compensation.

5. Appellant filed appeal before the High Court assailing the issue of liability contending, inter alia, no violation of guidelines as such was there and submitted that the offending vehicle was insured with insurance company indemnifying the liability. Appellant further contended that he had Special Temporary Authorization (in short 'permit') to operate the bus on the route for which the fee was paid. The High Court vide impugned order affirmed the findings of MACT and held that the vehicle owner failed to produce the original permit and also could not get the same proved calling the person from the Transport Department, in absence, the Claims Tribunal rightly decided the issue of liability against the owner.

6. Challenging the concurrent findings of the Courts below, the appellant contested the instant appeal largely on the ground that failure to produce the original permit cannot lead to an inference against him, especially when such permit has been duly issued by Transport Authority and confirmed in the reply under Right to Information Act (for short '**RTI Act**'). It was further contended that the appellant had valid permit as he deposited the due fee on the next day after the date of issuance of permit and hence, the finding of Courts below that the appellant did not have a valid permit, as such fastened the liability for payment of compensation is unjust.

7. Per contra, the State as well as Insurance Company mainly relied on the findings recorded by the Courts below to contend that the offending vehicle was not being plied as per the terms and conditions of the permit and also in violation of the terms and conditions of the insurance policy. It has further been contended that the offending vehicle stood withdrawn from State transport services way back in

2009 and was no more under the control of respondent No. 1, hence, the issue of liability has rightly been decided.

8. Having heard learned counsel for the parties and on perusal of the material available on record, it clearly reveals that on the date of accident, the appellant did not have a valid and effective permit to ply the offending vehicle on the route where accident took place. Having extensively gone through the fact-finding exercise, it is categorically recorded by MACT that the appellant was neither able to produce/prove the original permit nor was able to prove the information received under RTI Act. Even if RTI information is considered by which it is not clear as to when the disputed permit was issued and by whom. The alleged permit was issued on 28.07.2012, i.e., on Saturday and no explanation is on record as to why deposit of fee was asked on the next day i.e. Sunday. Moreover, assuming that permit was valid as per letter of Transport Authority, but it does not of any help to the appellant since the vehicle was being plied on a route different than specified in permit. The appellant has failed to give any explanation to refute the observations made by MACT to ply the vehicle on Roorkee by-pass to Haridwar

(6)

via Meerut which did not fall within the route of permit issued by Transport Authority. The said findings of fact have been affirmed by the High Court by the impugned order.

9. After going through the record, the concurrent findings of fact do not warrant any interference since they do not outrageously defy the logic as to suffer from the vice of irrationality and neither incur the blame of being perverse. In view of foregoing discussion, we are of the considered opinion that the arguments raised by appellant are bereft of any merit, hence this appeal is hereby dismissed.

10. During the course of hearing of the appeal, Ms. Rani Chhabra, Mr. Sameer Abhyankar, Ms. Sakshi Kakkar and Mr. Vivek Gupta, learned counsel for the parties have expressed concern regarding delay in disposal of the claims cases in trial court or at appellate stage. Emphasis has been made to the 'Objects and Reasons' of Motor Vehicles Amendment Act, 2019 (for short "M.V. Amendment Act") which is a benevolent legislation brought with an intent to compensate the family of the deceased and the persons suffered with injuries including permanent disability as

expeditiously as possible. It is said the mandate of the provisions of the M.V. Amendment Act, Rules and recourse as specified have not been followed by the stakeholders including Claims Tribunals working under subordination of different High Courts.

11. It is urged, the legislation to pay compensation in monetary terms for damages to person or property cannot put the claimant into his original position. What may be the adequate amount for a wrongful act is an extreme task. The payment of compensation in a case of death or for damage to the body in a motor accident claim may be based on arithmetical calculation. How far it is just and reasonable, is a matter of satisfaction of the Court by adopting a uniform approach. While determining compensation, he/she is required to be compensated as he/she cannot sue again, therefore, the determination of compensation of the damages is an extreme task. Therefore in assessing the compensation uniformity and reasonability are required to be followed. In such cases, dispensation of justice may cause social impact and may delay payment of compensation. Therefore, direction to follow the mandate of law at the earliest may be

issued.

12. To advert the said issue, the assistance of learned Senior Counsel Mr. S. Nagamuthu, Mr. C.A. Sundaram, Mr. A.N. Venugopala Gowda and learned counsel Mr. A.N. Krishna Swamy was sought as amici curiae including Ms. Garima Prashad, Additional Advocate General for State of U.P. They have rendered their assistance being officers of the Court in true sense and spirit which we acknowledge.

13. Learned counsel for the parties and learned amici curiae have mainly advanced their arguments with respect to M.V. Amendment Act in particular Chapter XI thereof, inter alia, emphasizing the importance of Sections 146, 149, 159, 160, 161, 164, 166 of the M.V. Amendment Act. It is urged that the Motor Vehicles (Fifth Amendment), Rules, 2022 (for short "M.V. Amendment Rules") have also been brought into force w.e.f. 1.4.2022 after the M.V. Amendment Act. Prior to the amendment of Act and Rules, as per the directions issued by the Delhi High Court and this Court, the standard operating procedure formulated and circulated to all the High Courts was observed by choice, and the outcome of its

implementation was negligible. But, now by amendment, a statutory regime is prescribed which is not being followed in most of the High Courts and by subordinate courts though it is required to be followed strictly. However, appropriate directions are required to implement the regime of M.V. Amendment Act and Rules. In alternative, the hurdle in implementation of the directions by joining the stake-holders may be directed as deemed fit. In support of these contentions, recourse as taken by the Delhi High Court as well as this Court in the case of ***'Rajesh Tyagi & Ors. Vs. Jaibir Singh & Ors., 2009 SCC Online Del 4306'*** (for short **"Rajesh Tyagi I"**), ***'Jai Prakash Vs. National Insurance Co. Ltd. & Ors., (2010) 2 SCC 607'*** (for short **"Jai Prakash I"**), ***'Rajesh Tyagi & Ors. Vs. Jaibir Singh &.Ors., 2014 SCC OnLine Del 7626'*** (for short **"Rajesh Tyagi II"**), ***'Rajesh Tyagi & Ors. Vs. Jaibir Singh & Ors., 2017 SCC Online Del 4306'*** (for short **"Rajesh Tyagi III"**) have been relied upon. In addition to refer the provisions of M.V. amendment Act and Rules.

14. After having heard learned counsels, we deem it necessary to trace the history as to how the M.V. Amendment Act and M.V. Amendment Rules have been brought into force to set up new regime to deal with the claim cases since the time of accident.

Evolution of Motor Vehicles Act vis-à-vis 2019 Amendment –

15. In this regard, the distinguished attempt to address the ensuing concerns was made by the Delhi High Court in ***Rajesh Tyagi I*** (supra). In the said case, the Court while dealing with the question of effective implementation of Delhi Motor Accident Claims Tribunal Rules, 2008 and Section 158(6) of M.V. Act (pre-2019 amendment) directed the Station House Officers to submit 'accident information report' to MACT within 30 days of accident and said report be treated as claim petition by MACT for the purpose of inquiry. Suggestions were invited and later a committee was constituted to find out a mechanism for time bound settlement of motor accident claim cases. After deliberations

from all stakeholders, the committee submitted a draft of 'agreed procedure' and consequently vide order dated 16.12.2009, the Delhi High Court formulated *"Claims Tribunal Agreed Procedure"* (for short **'CTAP'**) for time bound settlement of motor accident claims within 90 to 120 days and directed its implementation only for trial as pilot project for a period of six months from 15.01.2010 to 14.07.2010. The **CTAP** in addition to Section 158(6), in a nutshell provided as follows –

1. *Mandatory intimation of factum of the accident by Investigating Officer to the Claims Tribunal within 48 hours of the accident and if information about insurance company is available by that time, then intimation to the concerned insurance company by email;*
2. *Appointment of designated officer by insurance company for each case immediately upon receipt of intimation;*
3. *Collection of relevant evidence by Investigating Officer relating to accident as well as computation of compensation (photographs, proof of age, proof of income of deceased etc.);*
4. *Detailed Accident Report (DAR) to be filed by Investigating Officer before Claims tribunal within 30 days of the accident and a copy thereof to the concerned insurance company;*

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5. *Copy of DAR alongwith documents to be submitted to Legal Services Authority:*

6. *Discretion of the Claims Tribunal on application made for extension of time in cases where the Investigating Officer is unable to complete the investigation within 30 days for reasons beyond his control:*

7. *Production of driver, owner, claimant and eye-witnesses before Claims Tribunal alongwith DAR:*

8. *Furnishing of report by concerned Registration Authority in Form-D of Delhi Motor Accident Claims Tribunal Rules, 2008 to the Police and Claims Tribunal within 15 days from the receipt of request:*

9. *Examination of DAR by the Claims Tribunal as to whether the DAR is complete in all respects or not;*

10. *Treatment of DAR filed by Investigating Officer as claim petition under Section 166(4) of Motor Vehicles Act (pre 2019 Amendment):*

11. *Grant of 30 days' time to Insurance Company by Claims Tribunal to examine the DAR and to take a decision as to quantum of compensation:*

12. *Assessment of compensation by designated officer accompanied with reasoned order which shall constitute a legal offer to the claimants and in case, when such offer is acceptable to the claimant, Claims Tribunal to pass a consent award with a further 30 days' time for the insurance company to deposit the amount:*

13. *Time period of not more than 30 days' to be granted by Claims Tribunal to claimant to respond to offer made by insurance company;*

14. *Conduct of enquiry by Claims Tribunal under Section 168 and 169 (pre 2019 Amendment) and passing of award within 30 days' in case of non-acceptance of offer by claimant given by insurance company;*

15. *Computation of compensation payable to the legal representatives of deceased victims to be done by Claims Tribunal in accordance with the principles laid down by Hon. Supreme Court in 'Sarla Verma Vs. DTC, 2009 (6) SCALE 129';*

16. *Minimum wage to be considered by Claims Tribunal in cases where legal representatives of the deceased do not have documentary evidence as to proof of income of deceased;*

17. *Consideration of principles laid down by Delhi High Court in 'National Insurance Co. Ltd. Vs. Farzana, MAC. APP.13/2007' in case of death of a child.*

16. The High Court also directed the Delhi Police to prepare "Accident Investigation Manual" for implementation of the **CTAP**. In the output, it revolutionized the Motor Accident Compensation Scheme due to which the

claimant(s) received the compensation within 120 days of the accident.

17. Another notable effort was made by this Court in '**Jai Prakash I**' (supra), wherein this Court identified majorly four issues i.e., *firstly*, grant of compensation in cases of 'hit and run where the vehicles remain unidentified which do not have insurance cover having third party insurance but carrying persons not covered by the insurance'; *secondly*, 'widespread practice of using goods vehicles for passenger traffic'; *thirdly*, 'procedural delays in adjudication of claims by Motor Accident Claims Tribunal and following hardships to the victims; and *fourthly*, 'the full amount of compensation not reaching the victims, particularly to those who are uneducated'. Having regard to the nature of subject matter and considering the suggestions made by amicus, vide order dated 17.12.2009 guidelines/directions were issued by this Court to be carried out in three stages, the same are reproduced in brief as under:-

Directions to Police Authorities

1. *Director General of Police for each State is directed to instruct all Police Stations in the*

State to comply with provisions of Section 158(6) of Motor Vehicles Act (pre 2019 Amendment) and submit Accident Information Report in Form no. 54 accompanied with copies of First Information Report, site sketch/mahazar/photographs, Insurance policy, etc. to the jurisdictional MACT and Insurance company within 30 days of registration of FIR;

Directions to Claims Tribunals

1. *Registrar General of each High Court is directed to instruct all Claims Tribunal in his State to register the reports of accidents received under Section 158(6) of the Act and deal with them without waiting for filing of claim petition. Further, Registrar General shall ensure that necessary registers, forms and other support is extended to the Tribunal;*
2. *Tribunal shall maintain an Institution Register for recording Accident Information Reports received from Station House Officers and register them as miscellaneous petitions. Tribunal shall further fix a date of preliminary hearing and after appearance of claimants, it shall be converted into claim petition;*
3. *Tribunal shall satisfy itself that the Accident Information Report relates to a real accident and is not a result of any collusion or fabrication;*
4. *In case of non-dispute of liability by insurance company, Tribunal shall make an endeavor to determine the compensation amount by summary enquiry or refer the matter to Lok*

(16)

Adalat for settlement and dispose-off the claim petition itself within a time frame not exceeding six months from the date of registration of claim petition;

5. Tribunal shall direct insurance company to deposit the admitted amount or the amount determined, with Claims Tribunal within 30 days of determination;

Suggestions for Insurance Companies

1. In case of death and non-dispute of liability by insurance company, endeavor shall be made by insurance company to pay compensation as per standard formula to the family (legal representatives) of deceased without waiting for decision of Tribunal or settlement by Lok Adalat;

2. In case of injuries and non-dispute of liability by insurance company, the insurer should offer treatment at its cost to the injured without waiting for award of the Tribunal;

3. To protect and preserve the compensation amount awarded to families, special schemes in consultation with Nationalized Banks and Life Insurance Corporation of India may be considered by the insurance companies under which the compensation is kept in fixed deposit for an appropriate period and interest is paid by Bank on monthly basis;

4. Insurance companies may also consider offering annuity instead of lump sum compensation and prepare an annuity scheme with involvement of Life Insurance Corporation of India.

Suggestions for Legislative/Executive intervention

1. *Formulation of more comprehensive scheme ensuring payment of compensation to all accident victims of road accidents;*
2. *Introduction of hybrid model which involves collection of fixed lifetime premium in regard to each vehicle plus imposition of a road accident cess which may provide more satisfactory solution in vast country like India;*
3. *Define 'third party' to cover any accident victim other than the owner and increase the premia, if necessary;*
4. *Consider rationalization of Second Schedule to the Act and increase the quantum of compensation payable under Section 161 of the Act in case of hit and run motor accidents;*
5. *Secure compensation to the victims of road accidents involving uninsured vehicles by directing the owner of vehicle to offer security or deposit an amount adequate to satisfy the award as a condition precedent for release of seized vehicle.*

18. With the advent of time, the suggestions and guidelines issued by Courts were adopted and implemented by the authorities. Progress reports were filed by stakeholders at regular intervals for consideration of court. Similarly, in furtherance of the directions given by Delhi High Court in

Rajesh Tyagi I (supra), the **CTAP** was implemented in the territory of Delhi and certain lacunae were identified in its practical implementation. Meetings were convened involving all the stakeholders and further suggestions were presented before Court for incorporation in order to make the guidelines more efficient. The suggestions were duly considered, and Delhi High Court vide order dated 12.12.2014 in '**Rajesh Tyagi II**' (supra) incorporated the suggestions and appended the modified Claims Tribunal Agreed Procedure to be implemented with effect from 01.02.2015 for a period of six months subject to review after expiry of three months. Following is the gist of modifications as carried out and approved by Delhi High Court :-

1. *Intimation of the accident by the Investigating Officer has to be in Form I of the modified procedure (Clause 2);*
2. *List of documents to be collected by Investigating Officer is given under Clause 3;*
3. *Detailed Accident Report (DAR) to be filed by Investigating Officer shall be in Form II of the modified procedure;*
4. *Duty of Investigating Officer to seek directions from Claims Tribunal in Part X of Form II of DAR. In event of failure of*

driver/claimant/owner/ insurance company to disclose relevant information and produce documents before Investigating Officer within 15 days;

5. Duty of insurance companies to get DAR verified by their surveyor within 20 days of the receipt of copy of DAR (Clause 20);

6. Report of the Designated Officer of insurance company shall be in Form III of modified procedure (Clause 21);

7. Duty of Claims Tribunal to elicit the truth and satisfy itself that the statements made in DAR are true before passing the award (Clause 24);

8. Duty of the Claims Tribunal to examine the claimants before passing the award to ascertain their financial condition, proof of residence etc. (Clause 26);

9. Manner of deposit of award amount to be specified by Claims Tribunal (Clause 27);

10. Claims Tribunal to pass an appropriate order for protection of award amount (Clause 28);

11. Claims Tribunal shall deal with the compliance of provisions in award (Clause 29);

12. Claims Tribunal shall fix a date for reporting compliance (Clause 30);

13. Copy of DAR as well as award to be sent to concerned Magistrate (Clause 31);

14. Record of award passed by Claims Tribunal shall be maintained in Form V (Clause 33);

19. The aforesaid modified procedure was given a seal of affirmation by this Court vide order dated 13.05.2016 passed in ***Jai Prakash I (supra)*** while reviewing the progress made with respect to legislative changes that were suggested by previous order dated 17.12.2009. The modified procedure approved by Delhi High Court was brought on record and after perusal, this Court observed as follows:

> *"We have also perused the procedure, which has been placed before us as Annexure R5 with the response which, in our view, appears to be a comprehensive one and that we can issue further directions to the Registrar General of the Delhi High Court to ensure that procedure is strictly followed insofar as Delhi is concerned and also circulate the said procedure to all the other High Courts and the Registrar General of all the other High Courts are directed to ensure that the said procedure is implemented through the Motor Accident Claims Tribunal in coordination with the Legal Service Authorities as well as the Director General of Police of the States concerned."*

Subsequently, this Court vide order dated 06.11.2017, modified its earlier order dated 13.05.2016 and directed all States to implement the **Modified CTAF** while observing as follows –

> *"The order dated 13.05.2016 will therefore stand modified to the extent that Justice Madhu has himself modified his earlier order on 12th December, 2014. The Registry will send a copy of this order as well as the*

order passed by Justice Mishra on 12th December, 2014 to the Registrar General of each High Court for necessary information and compliance. List the matter on 23rd January, 2018."

20. In pursuance of the implementation of the guidelines, the proceedings in ***Rajesh Tyagi I (supra)*** continued before Delhi High Court and vide order dated 07.12.2018 [for short **'Rajesh Tyagi III'**], the Delhi High Court incorporated few more directions in the modified **CTAP**. However, effective implementation of the modified procedure remained a persistent roadblock at all levels, especially in terms of the directions given by this Court vide order dated 13.05.2016 and 06.11.2017 in ***Jai Prakash I (supra)***. The said concern again came for consideration before this Court in ***'M.R. Krishna Murthi Vs. The New India Assurance Co. Ltd., 2019 SCC OnLine SC 315'***, wherein, vide order dated 05.03.2019, this Court categorically noted that there was no effective implementation of modified **CTAP** by Claim Tribunals at all India level. Taking note of the aforesaid, this Court directed National Legal Services Authority to take up the matter and monitor the same in co-ordination and co-

operation with various High Courts. Further, directions were also given to State Judicial Academies to sensitize the Presiding Officers of Claim Tribunals, senior police officials and insurance companies for implementation of modified **CTAP**. Lastly, this Court also directed the Claim Tribunals pan India to implement 'Motor Accident Claims Annuity Deposit Scheme' [for short '**MACAD Scheme**'] as formulated by Delhi High Court in ***Rajesh Tyagi III (supra)***. The relevant paragraphs are being reproduced below for ready reference –

> "32. *Notwithstanding the aforesaid ADR methods, adjudicatory process before the MACTs is indispensable. There cannot be a guarantee that 100% cases would be settled through mediation or Lok Adalat. Therefore, there is a dire need for deciding these cases without delays and within reasonable period. The Delhi High Court has given four judgments providing for mechanism to speed up the disposal of such cases and to ensure that schemes are settled within a period of 90/120 days from the date of accident. In nutshell, these directions include that on the occurrence of accident, the police which comes into the picture in the first instance, should complete the investigation and along with filing of FIR before the concerned Court of Metropolitan Magistrate, copies are sent to MACT as well as Insurance Company also. Insurance Company is supposed to look into the same to find out as to whether the claim is payable and within 30 days it should respond to MACT and once all these documents are before the MACT in the form of*

evidence etc. as well, it would enable the MACT to decide the case within 30 days .....

33. Vide order dated 06th November, 2017 in Jai Prakash Case, this Court modified its order dated 13th May, 2016 and directed all States to implement the Modified Claims Tribunal Agreed Procedure formulated by Delhi High Court on 12th December, 2014. The copy of the Modified Claims Tribunal Agreed Procedure was directed to be circulated to the Registrar General of each High Court necessary for compliance.....

34. This needs to be followed at all India level. NALSA should take up and monitor the same as well in coordination and cooperation with various High Courts to facilitate the same.

xxx xxx xxx

37. Thus, direction for implementation of the 'Claims Tribunal Agreed Procedure' which is substituted by modified procedure, as noted above, are already there. However, we find that there is no proper implementation thereof by the Claims Tribunals. We, thus, direct that there should be programs inter alia from time to time, in all State Judicial Academies to sensitize the presiding officers of the Claims Tribunals, senior police officers of the State Police as well as Insurance Company, for the implementation of the said Procedure.

21. Based on the guidelines issued by this Court and Delhi High Court, recommendations were made by Group of Transport Ministers (GoM) of States alongwith other stakeholders. The Central Government with an objective to 'improve road safety, facilitate citizens in their dealings with transport departments, strengthen rural transport, public

transport, last mile connectivity through automation, computerization and online services' introduced **'The Motor Vehicles (Amendment) Bill, 2019'**. The aforesaid Bill was passed by both the Houses as ***'The Motor Vehicles Act, 1988 (59 of 1988).***

22. Vide new Amendment, **'Chapter X'** of the preceding Act was omitted. ***'Chapter XI – Insurance of Motor Vehicles against third party risks' and Chapter XII – Claims Tribunals*** were amended as per the Motor Vehicle Amendment Act, 2019 which came into force w.e.f. 1.4.2022. For the purpose of this case, we are mainly concerned with Chapters XI and XII of the Amendment Act and the Rules to emphasize the necessity of insurance, duties specified to the police officer, registering authority, insurance companies and Claim Tribunals to determine compensation.

Necessity of Insurance of the vehicle:

23. By virtue of an amendment made in Section 146, insurance of motor vehicle is made necessary. The said Section is relevant, therefore reproduced as under:

" 146: *Necessity for insurance against third party risk.* —

(1) No person shall use, except as a passenger, or cause or allow any other person to use, a motor vehicle in a public place, unless there is in force in relation to the use of the vehicle by that person or that other person, as the case may be, a policy of insurance with the requirements of this Chapter:

[Provided that in the case of a vehicle carrying, or meant to carry, dangerous or hazardous goods, there shall also be a policy of insurance under the Public Liability Insurance Act, 1991 (6 of 1991).]

Explanation. —A person driving a motor vehicle merely as a paid employee, while there is in force in relation to the use of the vehicle no such policy as is required by this sub-section, shall not be deemed to act in contravention of the sub-section unless he knows or has reason to believe that there is no such policy in force.

(2) Sub-section (1) shall not apply to any vehicle owned by the Central Government or a State Government and used for Government purposes unconnected with any commercial enterprise.

(3) The appropriate Government may, by order, exempt from the operation of sub-section (1) any vehicle owned by any of the following authorities, namely:—

> *(a) the Central Government or a State Government, if the vehicle is used for Government purposes connected with any commercial enterprise;*
> *(b) any local authority;*
> *(c) any State transport undertaking:*

Provided that no such order shall be made in relation to any such authority unless a fund has been established and is maintained by that authority in accordance with the rules made in that behalf under this Act for meeting any liability arising out of the use of any vehicle of that authority which that authority or any person in its employment may incur to third parties.

Explanation. —For the purposes of this sub-section, "appropriate Government" means the Central Government or a State Government, as the case may be, and—

(i) in relation to any corporation or company owned by the Central Government or any State Government, means the Central Government or that State Government;
(ii) in relation to any corporation or company owned by the Central Government and one or more State Governments, means the Central Government;
(iii) in relation to any other State transport undertaking or any local authority, means that Government which has control over that undertaking or authority.

24. On perusing the M.V. Amendment Act, in particular Section 146 of Chapter XI, it is clear that a motor vehicle cannot ply on public place nor is allowed to be used at the public place unless insured. The exemption from insurance has been prescribed to the vehicles owned by the Central Government, State Government, local authority or any State Transport Undertaking, if the vehicle is used for the purpose not connected with any commercial enterprise. Exemptions specified in sub-section (2) are subject to the orders of the appropriate Government. As per the said provisions, the rigor of sub-section (1) would not apply to the vehicles owned by the authorities specified in sub-section (3) (a) to (c) subject to establishment of the fund and its maintenance by such authority, as may be prescribed by appropriate Government. Thus, exemptions permitted to the class and category of the vehicles of the Central Government and State

Government are only subject to the order of the appropriate Government on establishing and maintaining fund by such authority. The appropriate Government has also been defined for the purpose of vehicles of local authorities and State Transport Undertakings.

25. The limits of the liability of the insurance have been prescribed under Section 147 and in terms of the policy so issued under the provisions of the M.V. Amendment Act. Section 147 is reproduced thus:

> *147 : Requirements of policies and limits of liability. —*
>
> *(1) In order to comply with the requirements of this Chapter, a policy of insurance must be a policy which—*
>
> *(a) is issued by a person who is an authorised insurer; and*
>
> *(b) insures the person or classes of persons specified in the policy to the extent specified in sub-section (2)—*
>
> *(i) against any liability which may be incurred by him in respect of the death of or bodily [27] injury to any person, including owner of the goods or his authorised representative carried in the vehicle] or damage to any property of a third party caused by or arising out of the use of the vehicle in a public place;*
>
> *(ii) against the death of or bodily injury to any passenger of a public service vehicle caused by or arising out of the use of the vehicle in a public place;*
>
> *Provided that a policy shall not be required—*
>
> *(i) to cover liability in respect of the death, arising out of and in the course of his employment, of the employee of a person insured by the policy or in respect of bodily injury*

sustained by such an employee arising out of and in the course of his employment other than a liability arising under the Workmen's Compensation Act, 1923 (8 of 1923) in respect of the death of, or bodily injury to, any such employee—

(a) engaged in driving the vehicle, or

(b) if it is a public service vehicle engaged as conductor of the vehicle or in examining tickets on the vehicle, or

(c) if it is a goods carriage, being carried in the vehicle, or

(d) to cover any contractual liability.

Explanation. —For the removal of doubts, it is hereby declared that the death of or bodily injury to any person or damage to any property of a third party shall be deemed to have been caused by or to have arisen out of the use of a vehicle in a public place notwithstanding that the person who is dead or injured or the property which is damaged was not in a public place at the time of the accident, if the act or omission which led to the accident occurred in a public place.

(2) Subject to the proviso to sub-section (1), a policy of insurance referred to in sub-section (1), shall cover any liability incurred in respect of any accident, up to the following limits, namely:—

(a) save as provided in clause (b), the amount of liability incurred;

(b) in respect of damage to any property of a third party, a limit of rupees six thousand:

Provided that any policy of insurance issued with any limited liability and in force, immediately before the commencement of this Act, shall continue to be effective for a period of four months after such commencement or till the date of expiry of such policy whichever is earlier.

(3) A policy shall be of no effect for the purposes of this Chapter unless and until there is issued by the insurer in favour of the person by whom the policy is effected a certificate of insurance in the prescribed form and containing the prescribed particulars of any condition subject to which the policy is issued and of any other

prescribed matters; and different forms, particulars and matters may be prescribed in different cases.

(4) Where a cover note issued by the insurer under the provisions of this Chapter or the rules made thereunder is not followed by a policy of insurance within the prescribed time, the insurer shall, within seven days of the expiry of the period of the validity of the cover note, notify the fact to the registering authority in whose records the vehicle to which the cover note relates has been registered or to such other authority as the State Government may prescribe.

(5) Notwithstanding anything contained in any law for the time being in force, an insurer issuing a policy of insurance under this section shall be liable to indemnify the person or classes of persons specified in the policy in respect of any liability which the policy purports to cover in the case of that person or those classes of persons.

The aforesaid provision specifies what may be the requirements of the insurance policies and on having insurance, limits of liability to pay compensation to the claimants.

ACTION BY POLICE OFFICERS AND REGISTERING AUTHORITIES IN THE EVENT OF OCCURRENCE OF ACCIDENT BY USE OF MOTOR VEHICLE AT PUBLIC PLACE:

26. While following the procedure, where an accident has taken place, information regarding accident is required to be furnished to the police officer. The relevant provisions with

respect to the information and duties of the police officer and registering authority have been specified under Sections 159 and 160 of the M.V. Amendment Act, which are reproduced as thus:

> "**159**. *Information to be given regarding accident.—The police officer shall, during the investigation, prepare an accident information report to facilitate the settlement of claim in such form and manner, within three months and containing such particulars and submit the same to the Claims Tribunal and such other agency as may be prescribed.*"
>
> **160**. *A registering authority or the officer-in-charge of a police station shall, if so required by a person who alleges that he is entitled to claim compensation in respect of an accident arising out of the use of a motor vehicle, or if so required by an insurer against whom a claim has been made in respect of any motor vehicle, furnish to that person or to that insurer, as the case may be, on payment of the prescribed fee, any information at the disposal of the said authority or the said police officer relating to the identification marks and other particulars of the vehicle and the name and address of the person who was using the vehicle at the time of the accident or was injured by it and the property, if any, damaged in such form and within such time as the Central Government may prescribe.*"

27. From the above, it is evident that on receiving the intimation of the accident and during investigation, the police officer is required to prepare the accident information report

(AIR) and shall work as a facilitator in settlement of the claim in a manner as prescribed and furnish the information to the Claims Tribunal and other stakeholders, as specified. The police officer and registering authority are supposed to discharge their functions to facilitate and furnish the information on payment of prescribed fees to the person entitled for compensation or to insurer, against whom the claim has been made. They shall also facilitate to identify the vehicle, name and address of the person using the vehicle at the time of accident and also regarding a person injured or property involved, as prescribed.

28. The Central Government in its wisdom with an intent to carry out the purpose of the Act promulgated the Rules, known as Motor Vehicle Amendment Rules, 2022.

29. As per the Rules, in the event of a road accident, the investigation must be started immediately on receipt of information by the police officer of the police station concerned. The Investigating Officer shall inspect site of accident, take photographs/videos of scene and vehicle involved, followed by preparation of site plan drawn to scale

as to indicate the width of road(s) as the case may be and other relevant factors including the persons and vehicles involved in the accident. In a case of injury, the Investigating Officer shall take photographs of the injured in the hospital and shall conduct spot enquiry examining the eyewitnesses/bystanders. The intimation regarding the accident is required to be furnished by Investigating Officer within 48 hours to the Claims Tribunal in the shape of First Accident Report (**FAR**) in **Form-I**. It is further required to be sent to the Nodal Officer of the insurance company on having particulars of the insurance policy. The injured/victim(s), legal representative(s), State Legal Services Authority, insurer shall also be provided the copy of **Form-I** and the same must be uploaded on the website of the State Police, if available.

30. It would be the duty of the Investigating Officer to inform the injured/victim(s)/legal representative(s) regarding their rights by supplying **Form-II** attaching flow chart within 10 days specifying the scheme to seek remedial measure. It would be the duty of the Investigating Officer to ask the information in **Form-III** and **Form-IV** from the driver(s) and

the owner(s) respectively within 30 days. As per the new regime, on receiving the information, Interim Accident Report (**IAR**) shall be submitted by the Investigating Officer to the Claims Tribunal within 50 days in **Form V** along with relevant documents. A copy of the said **IAR** shall be furnished to the insurance company of the motor vehicle(s) involved in the road accident, victim(s)/claimant(s), State Legal Services Authority, insurer and General Insurance Council. The Investigating Officer or the insurance company shall have right to verify the details of the driver and the owner by using the **VAHAN** App or shall take the help of Registering Authority. Investigating Officer is duty bound to take the relevant details from the victim(s) or the legal representative(s), as the case may be and furnish the details within 60 days in **Form-VI**. **Form-VI-A** is modulated to the minor children, who are in need of care and protection in terms of the Juvenile Justice (Care and Protection of Children) Act, 2015.

31. On failure to submit the relevant information and documents, as required in **Forms III, IV** and **VI** by the

(34)

driver(s), owner(s), claimant(s) or any information by the insurance company, the Investigating Officer may ask for direction to the stakeholder(s) before the Claims Tribunal to furnish such information within 15 days. The registering authority is duty bound to verify the licence of driver, fitness and permit of the vehicle(s) involved in the accident and shall supply such information within 15 days to the Investigating Officer. Similarly, for the purpose of issuance of medico legal report or the post-mortem report, the hospital is required to furnish such information to the Investigating Officer within 15 days.

32. The Investigating Officer shall within 90 days compile all relevant documents and material in the form of Detailed Accident Report (**DAR**) in **Form-VII** accompanying site plan **Form-VIII**, mechanical inspection report **Form-IX** , verification report **Form-X** and the report under Section 173 Code of Criminal Procedure (Cr.P.C.) It would be the duty of the registering authority to verify the registration certificate, driving licence, fitness and permit in respect of the vehicle(s) involved in the accident and the same is

required to be submitted within 15 days to the Investigating Officer to complete the **IAR** and **DAR**. The extension of time limit to file **IAR** and **DAR** is only permissible where the Investigating Officer approaches the Claims Tribunal in cases where parties reside outside the jurisdiction of the Court or where the driver's licence is issued outside the jurisdiction of the Court or where the victim(s) have suffered grievous injuries and are undergoing continuous treatment. Thus, the Investigating Officer shall furnish **FAR** within 48 hours, **IAR** within 50 days, complete the investigation within 60 days and file **DAR** within 90 days. Copy of **DAR** shall be furnished to the victim(s), owner(s)/driver(s) of the vehicle(s), the insurance company involved and the State Legal Services Authority including the Nodal Officer of the insurance company and the General Insurance Council.

33. On perusal of the above, it is clear that to carry out the purpose of the provisions of Sections 159 and 160 of the M.V. Amendment Act, the Officer In-charge of the police station and the registering authority are required to act upon in a manner as prescribed in the Rules within the period as

specified, thereby on receiving the information of accident, the complete information regarding such accident is to be made available before the Claims Tribunal within the time limit without delay. As per Rules, the failure to perform the duties by the police officer may entail severe consequences as envisaged under the provisions of the State Police Act. Thus, legislative intent is clear that on reporting a road accident... the Investigation Officer must complete all his action within time frame and shall act as facilitator to the victim(s)/claimant(s), insurance company by furnishing all details in prescribed forms, thereby claimant(s) may get damages/compensation without delay.

PROCEDURE TO PROCESS THE CLAIM BEFORE TRIBUBAL FOR GRANT OF COMPENSATION.

34. Under the M.V. Amendment Act and the Rules framed thereunder, by omitting Chapter-X, the provisions for grant of compensation under no-fault liability have been deleted and the special procedure has been carved out introducing Section 149. The aforesaid section is relevant to deal with the issue in context, therefore reproduced as thus:

(38)

"**149. Settlement by insurance company and procedure therefor. —**

(1) The insurance company shall, upon receiving information of the accident, either from claimant or through accident information report or otherwise, designate an officer to settle the claims relating to such accident.

(2) An officer designated by the insurance company for processing the settlement of claim of compensation may make an offer to the claimant for settlement before the Claims Tribunal giving such details within thirty days and after following such procedure as may be prescribed by the Central Government.

(3) If, the claimant to whom the offer is made under sub-section (2), —

(a) accepts such offer, —

(i) the Claims Tribunal shall make a record of such settlement, and such claim shall be deemed to be settled by consent; and

(ii) the payment shall be made by the insurance company within a maximum period of thirty days from the date of receipt of such record of settlement;

(b) rejects such offer, a date of hearing shall be fixed by the Claims Tribunal to adjudicate such claim on merits.

35. As per Section 149, on receiving the information of the accident from claimant or from the Accident Information Report (**AIR**), the insurance company shall appoint a 'Designated Officer' to settle the claim. The said officer is required to make an offer to the claimant(s), specifying its

detail within 30 days by following such procedure, as prescribed by the Central Government. Sub-section (3) of Section 149 makes it clear that the offer made by the Designated Officer may either be accepted or rejected by the injured/victim or legal heirs of the deceased. In case, the offer is accepted, the Claims Tribunal shall record the settlement and treat such a claim as settled by consent. On such settlement, the payment has to be made by insurance company within 30 days. But, in the latter situation of rejection of such offer, the Claims Tribunals shall fix a date of hearing for adjudication of such claim on merits.

36. Section 164 of M.V. Amendment Act is relevant to deal with the claim cases in which negligence is not required to be pleaded and proved and the same is reproduced thus:

> **Section 164 - Payment of compensation in case of death or grievous hurt, etc**
>
> *(1) Notwithstanding anything contained in this Act or in any other law for the time being in force or instrument having the force of law, the owner of the motor vehicle or the authorised insurer shall be liable to pay in the case of death or grievous hurt due to any accident arising out of the use of motor vehicle, a compensation, of a sum of five lakh rupees in case of death or of two and a half lakh rupees in case of grievous hurt to the legal heirs or the victim, as the case may be.*

(2) In any claim for compensation under sub-section (1), the claimant shall not be required to plead or establish that the death or grievous hurt in respect of which the claim has been made was due to any wrongful act or neglect or default of the owner of the vehicle or of the vehicle concerned or of any other person.

(3) Where, in respect of death or grievous hurt due to an accident arising out of the use of motor vehicle, compensation has been paid under any other law for the time being in force, such amount of compensation shall be reduced from the amount of compensation payable under this section.

37. The aforesaid provision has been brought where the claimant(s) is not required to plead or establish any wrongful act or neglect or default of the owner(s) of the vehicle(s) or of any other person for payment of compensation. Therefore, sub-section (1) has been given overriding effect limiting the liability to pay compensation to the tune of Rs. 5 lakhs in case of death and Rs. 2.50 lakhs in case of grievous hurt to the legal heirs or to the victim(s), as the case may be. It is further made clear the compensation, if payable in any other law, then such amount is required to be reduced from the amount of compensation payable under this Section, meaning thereby the legislative intent is clear that a person, who has suffered with an accident must be compensated just and reasonably and the victim(s)/family of the deceased must be paid for the

bodily injury or loss of life caused by an accident by use of a motor vehicle at a public place.

38. In addition to the said process of adjudication, the claimant(s) have the option for taking recourse directly by approaching the Claims Tribunal by filing an application seeking compensation. The said provision of Section 166 is relevant and reproduced as thus:

> ***166. Application for compensation.—***
>
> *(1) An application for compensation arising out of an accident of the nature specified in sub-section (1) of section 165 may be made —*
>
> *(a) by the person who has sustained the injury; or*
>
> *(b) by the owner of the property; or*
>
> *(c) where death has resulted from the accident, by all or any of the legal representatives of the deceased; or*
>
> *(d) by any agent duly authorized by the person injured or all or any of the legal representatives of the deceased, as the case may be:*
>
> *Provided that where all the legal representatives of the deceased have not joined in any such application for compensation, the application shall be made on behalf of or for the benefit of all the legal representatives of the deceased and the legal representatives who have not so joined, shall be impleaded as respondents to the application.*
>
> *Provided further that where a person accepts compensation under section 164 in accordance with the procedure provided under section 149, his claims petition before the Claims Tribunal shall lapse.]*

(2) Every application under sub-section (1) shall be made, at the option of the claimant, either to the Claims Tribunal having jurisdiction over the area in which the accident occurred or to the Claims Tribunal within the local limits of whose jurisdiction the claimant resides or carries on business or within the local limits of whose jurisdiction the defendant resides, and shall be in such form and contain such particulars as may be prescribed:

[(3) No application for compensation shall be entertained unless it is made within six months of the occurrence of the accident.]

[(4) The Claims Tribunal shall treat any report of accidents forwarded to it under section 158 as an application for compensation under this Act.]

[(5) Notwithstanding anything in this Act or any other law for the time being in force, the right of a person to claim compensation for injury in an accident shall, upon the death of the person injured, survive to his legal representatives, irrespective of whether the cause of death is relatable to or had any nexus with the injury or not.]

39. On perusal, it is clear that in the case of injuries or of death or of damage of property arising out of motor accident at a public place, application for grant of compensation can be submitted directly to the Claims Tribunal by the claimants. In the case of death, all the representatives of the deceased or any of them may file an application. If all have not joined as applicant(s), remaining may be joined as respondents. Under this Section, if the claimant(s) apply for

grant of compensation, they have option to choose the place or the Claims Tribunal, which may have the jurisdiction either where, the accident occurred or the claimant(s) resides or carries business or in the local limits of whose jurisdiction the defendant resides. For taking recourse under the aforesaid Section, the application seeking compensation can be entertained if it is filed within six months from the date of the accident. As per second proviso of sub-section (1), it is apparent that in case recourse under Section 164 or as per the procedure specified in Section 149 has been taken and the compensation is accepted by the claimant(s), then recourse under Section 166 would not be available. But, in case the compensation has not been accepted under Section 149 or the recourse of Section 164 has not been taken, the Claims Tribunal, in whose jurisdiction the accident occurred, shall treat the report of Section 159 as claim petition under this Act and may proceed to decide the same in accordance with law.

40. On perusal of the scheme of the Act, it is clear that as a first recourse by not pleading or establishing proof of wrongful act, neglect or default of the owner or driver or of

the vehicle, the compensation can be claimed under Section 164, but such compensation is of limited amount to the tune, as specified in case of death or grievous injury. The second recourse available to the claimant(s) is to apply by proving wrongful act and neglect of the owner(s) or the driver(s) before the Claims Tribunal by opting the jurisdiction at a place specified under sub-section(2) but such claim must be filed within six months from the date of accident and be adjudicated by the Tribunal. The third recourse has been prescribed by introducing Section 149 of M.V. Amendment Act by which in case the claimant(s) have failed to take recourse either under Section 164 or Section 166 within the prescribed period of limitation, the report submitted by the investigating officer to the Claims Tribunal, within whose jurisdiction the accident occurred, may be treated as claim application under Section 166(4) and would not debar the claimant(s) to seek compensation if he/they could not file the application under Section 166(1) of the Act.

41. As discussed above, Section 149 lays emphasis on the settlement of the claim in case the liability of the insurance company is not in dispute subject to complying other

necessary formalities, as prescribed. The said provision also emphasize the determination of compensation within time frame without delay, thereby the victim may get compensation for the damages at the earliest. On harmonious reading and construing the said three Sections, it is therefore clear that the M.V. Amendment Act emphasizes the need to pay compensation to the claimant(s) or legal representative(s) and decide the claim by taking recourse whatever is opted by the claimant(s) at the earliest and the family should not be left to suffer without payment of damages. In cases of rash negligent driving where **DAR** does not bring the charge of negligence or the claimant(s) choose to claim compensation under no-fault despite the charge of negligence, the said claim shall be registered under Section 164 and it be dealt with accordingly.

42. As per Rules, except in cases under Section 164, for the claims either under Section 149 or 166, the procedure prescribed in the M.V. Amendment Rules is required to be followed by the Claims Tribunal. As specified, on receiving the **FAR**, the Claims Tribunal is required to register such

FAR as Miscellaneous Application. On filing the **IAR** and **DAR**, it shall be attached and be made part of the Miscellaneous Application. The Claims Tribunal is required to examine the **FAR**, **IAR** or **DAR**, as the case may be and in the proceedings of the said Miscellaneous Application, appropriate direction for production of requisite forms prescribed in the Rules through claimant(s), driver(s), owner(s) or extension of time, as specified, may be directed. It should be kept in mind by the Claims Tribunal that the said **DAR** may be treated as an application under Section 166 as per sub-section (4) thereof. In case the claimant(s) have taken the recourse under Section 166(1) & (2) and filed a separate claim petition, the said **DAR** may be tagged with the said claim petition, otherwise the proceedings under Section 149 shall continue. The Claims Tribunal awaiting the report under Section 173 Cr.P.C. may satisfy itself with respect to the negligence before passing an award.

43. On filing **FAR**, if **IAR/DAR** is not complete, the time shall be fixed by the Claims Tribunal to complete the same and on completion, the date for appearance of the driver(s),

owner(s), claimant(s) and eye witness(s) shall be fixed and they shall be produced by the Investigating Officer on the date so fixed. It shall also be the duty of the Investigating Officer to intimate the Nodal Officer of the insurance company and also the insurance company to secure their presence on such date.

44. After lodging the FIR and on receipt of information by the insurance company, it would be the duty of the company to appoint a Nodal Officer and furnish the intimation to the state police, who shall co-ordinate with all stakeholders. On receiving the information through Nodal Officer, the insurance company shall verify the claim up to the stage of filing the **DAR**. In case it is found that **DAR** is not correct, the Designated Officer of the insurance company shall send a copy of the report of the surveyor/investigator to the Deputy Commissioner or equivalent officer of the Police Department or otherwise to carry out the purpose of Section 159. The said officer shall make an offer to the claimant(s) for settlement before the Claims Tribunal, specifying the details of offer and submit the said proposal within 30 days of

DAR in **Form-XI** along with the report of the surveyor/investigator. On submitting such form, the claimant(s) may accept the offer of the insurance company or may reject the same. In case the offer is accepted, the Claims Tribunal shall take such offer on record and by the consent the claim be settled recording satisfaction that the compensation, as settled, is just and reasonable and pass an award in terms of such settlement. Prior to passing an award, it is open to the Tribunal to examine the claimant(s) for ascertaining their financial condition, owner(s), driver(s) and the insurer to submit their defence, if any to satisfy itself. In case the offer made by the Designated Officer is not accepted by the claimant(s), rejecting such offer, the claimant(s) are required to file relevant material asking more amount of compensation for which the date of hearing shall be fixed by the Tribunal to adjudicate the claim on merit. After fixing the date and recording the evidence, if required, written submissions may be taken and thereafter Tribunal shall finally adjudicate and decide the claim. After passing the award, copy of the **DAR** and the award so passed be sent to the criminal court and accordingly, the Miscellaneous

Application registered by the Tribunal shall be treated as disposed of.

ANALYSIS OF THE M.V. AMENDMENT ACT AND RULES WITH AN INTENT TO FIND OUT CONVENIENT PROCEDURE FOR ADJUDICATION OF THE CLAIM CASES WITHOUT ANY DELAY.

45. As per the discussion made hereinabove, it is made clear that the M.V. Amendment Act and the Rules have been introduced with an advent to implement the steps taken by the Court issuing directions to carry out the purpose of the benevolent legislation. As per the M.V. Amendment Act, insurance of the vehicle, until exempted, is made necessary to carry out the purpose of the Act and the Rules subject to the conditions, as specified under Section 147.

46. The claimant(s) have been given three options to claim compensation before the Claims Tribunal. As discussed hereinabove, the option under Section 164 is without pleading the proof of negligence while option under Section 166(1) & (2) by the claimant(s) is by proving the negligence of the offending vehicle. In addition, Section 149 is added by which the de novo procedure has been prescribed

immediate on registration of FIR by taking action through the police officer before the Claims Tribunal. It is urged by learned Amicus Curiae that the said procedure is not being followed in most part of the country by the Claim Tribunals though the said Section is a complete code in itself in the matter of distribution of the compensation. Therefore, appropriate directions are required.

47. As prescribed under M. V. Amendment Act and Rules, the police officials and the registering authority are bound to take action in the event when an accident takes place and the information is received by them. Further, it is seen that as per Rule 3 of the M.V. Amendment Rules, the police officer is required to furnish the details to the victim(s) regarding his/their rights in a road accident and the flow chart of the scheme along with **Form-II** is required to be furnished to them. The said flow chart and all other documents, as specified in the Rules, must be either in vernacular language or in English and shall be furnished to the claimant(s) or other affected persons, as per their convenience. They are required to take immediate action and submit the report to the Claims Tribunal informing the

victim(s), driver(s), owner(s), insurance company and other stakeholders with an intent to facilitate them, subject to the directions of the Claims Tribunal. The Claims Tribunal is also duty bound to take immediate action and to proceed in the matter as required under the Act and the Rules.

48 In our view, the contentions advanced by the learned counsels deserve to be allowed. The police officers and registering authority are duty bound to act as per the M.V. Amendment Act and the Rules and are required to submit the **FAR**, **IAR** and **DAR** within the prescribed period under the Rules. The registering authority is also bound to take action in the matter of verification of the permit, fitness of vehicle, driver licence and on other ancillary issues. The insurance company is bound to appoint the Nodal Officer as per Rule 24 to facilitate the Investigating Officer in the matter of enquiry and investigation, submitting details regarding insurance and co-ordinate with the stakeholders.

49. In our view, the procedure carved out under Section 149 of the Amendment Act is de novo on filing the **FAR** before the Claims Tribunal and Tribunal is required to

register such proceedings as Miscellaneous Application. On filing **IAR** and **DAR** by the police officer within the time as specified, it shall be made part thereof. If the claimant(s) has not opted for taking recourse under Section 166(1) within the time limit of six months, such Miscellaneous Application may be treated as an application under Section 166(4) of M.V. Amendment Act and be adjudicated in accordance with law. Therefore, the procedure as prescribed under Section 149 is in addition to the proceedings of Sections 164, 166 of M.V. Amendment Act and such mandate of law is required to be followed in true sense and spirit.

50. Learned Amicus Curiae contends that in a situation where the claimant(s) opts to file a claim petition under Section 166 other than a place where the accident has taken place taking recourse of Section 166(2) of the M.V. Amendment Act, the proceedings initiated under Section 149 is required to be closed and tagged with those proceedings. It is also urged that possibility of filing application by opting the Claims Tribunals at different places within territorial jurisdiction of different High Court by other claimant(s)

cannot be ruled out. It is further contended that in case the claim petitions have been filed at different places by different claimant(s) within the territorial jurisdiction of different High Courts, appropriate directions to transfer those cases at one place in exercise of the power under Section 142 of the Constitution of India needs to be issued, thereby the delay may be curbed in proceeding the claim case.

51. In our view, the argument as advanced is having force, therefore, we direct that on initiation of the proceedings under Section 149 registering a Miscellaneous Application by the Claims Tribunal, in whose jurisdiction the accident occurred would continue until the proceedings under Section 166 has been filed by the claimant(s) separately. In the event of filing a separate application and on receiving the information in this regard either from the claimant(s), or investigating officer or insurance company, the proceedings under Section 149 shall be deemed as closed and be tagged with the proceedings of Sections 164/166 filed by the claimant(s). In case the claimant(s)/legal representative(s) have filed different applications under Section 166 before different Claim Tribunals at different places outside the

territorial jurisdiction of one High Court, in the said contingency the Claims Tribunal, where the first claim petition is filed shall have jurisdiction to adjudicate and decide the same and other claim petition(s) filed by the claimant(s)/legal representative(s) in the territorial limits of other High Courts shall stand transferred to the Claims Tribunal where the first claim petition was filed and the proceedings under Section 149 shall be tagged with the said file. In order to curb the delay on account of pendency of claim petition(s) before different Claim Tribunals within the territorial jurisdiction of different High Courts, such direction is necessary. Therefore, we deem it appropriate to exercise our power under Article 142 of the Constitution of India. It is directed that Registrar General of the High Courts shall issue appropriate orders for transferring the subsequent proceedings and records to the Claims Tribunal where the first claim petition filed by the claimant(s) is pending. It is made clear here that the parties are not required to file any transfer petition before this Court seeking order of transfer in such individual cases pending in the jurisdiction of different High Courts.

52. Learned Amicus Curiae has further pointed out that in some High Courts, distribution memos attaching the Claims Tribunal to the police stations have not been issued, however taking recourse under Section 149 of the M.V. Amendment Act is not possible within the prescribed period of time, therefore directions may be issued to prepare the distribution memos by the High Courts with respect to police stations and Claims Tribunals in order to implement the recourse of Section 149 of the M.V. Amendment Act and the Rules may be issued and the same be notified in public domain for the convenience of public.

53. In this regard, it would suffice to observe that in the High Courts, where the distribution of police stations and specified Claims Tribunals is not already in force, steps shall be taken by the Registrar Generals to prepare distribution memos and notify the same time to time, thereby the proceedings under Section 149 may continue effectively in such Claim Tribunals without any delay. The Tribunals, as notified, shall take recourse as discussed and on appointment of the Designated Officer as per Rule 23 of the Rules, the settlement of claim may be processed by the

insurance company. The said proceedings would continue until it is tagged with the claim petition, if any, filed under Section 166 of the M.V. Amendment Act. It is also made clear that if the claimant(s) have not taken any recourse under Section 166, then the miscellaneous application be treated as claim petition under Section 166(4) of the M.V. Amendment Act and the Claims Tribunal is duty bound to decide such claim by following the procedure in accordance with law.

54. It is contended by learned Amicus Curiae that in case the liability of the insurance company is not disputed in terms of the policy conditions commensurate to Section 147 of the Act, the offer so made by the Designated Officer ought to be reasonable specifying the detailed reasons to make such offer within the time as prescribed. On the said offer, the Claims Tribunal shall seek consent of the claimant(s), whether they agree for the same. In case, the claimant(s) does not agree with the said offer, the enquiry under Section 149(3) should be limited to the extent of enhancement of compensation shifting onus to claim such enhancement on

claimant(s) which is required to be discharged by the claimant(s).

55. We find force in the said contention. Therefore, we direct that the Designated Officer, while making offer, shall assign detailed reasons to show that the amount which is offered is just and reasonable. In case, the said offer is not accepted by the claimant(s), the onus would shift on the claimant(s) to seek for enhancement of the amount of compensation and the said enquiry under Section 149(3) would be limited for enhancement only.

56. Learned Amicus Curiae further submits that in case the claimant(s) wishes to opt to take recourse under Section 166 of the M.V. Amendment Act opting jurisdiction of Claims Tribunal as specified under Section 166(2), in such cases, directions may be issued to join the Nodal Officer/Designated Officer of the insurance companies of a place where the accident took place. The said recourse is necessary to further curb the delay in tagging the proceedings of Section 149. Those Designated Officer/Nodal Officer may be in a position to clarify regarding the details of the proceedings

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already taken under Section 149 of the M.V. Amendment Act before the Claims Tribunal concerned.

57. We find force in the said contention. Therefore, we direct that if the claimant(s) wants to exercise the option under Section 166(2) of the M.V. Amendment Act, he/they are free to take such recourse by joining the Designated Officer/Nodal Officer of the insurance company of the place where the accident occurred as respondent in the claim petition.

58. It is further urged by learned Amicus Curiae that the Claims Tribunal, police officials and the insurance companies must be sensitized by the State Judicial Academies working under the control of the High Courts with respect to the provisions of the M.V. Amendment Act and the Rules, thereby the said procedure must be adopted in-coordination with the police officials, insurance companies and other stakeholders. We are in agreement to the said submission and direct the State Judicial Academies to take recourse to sensitize the stakeholders including the said

subject in their annual training calendar as early as possible.

59. Learned Amicus Curiae has shown the apprehension that the procedure, as specified under Sections 149,159 and 160 of the M.V. Amendment Act and Rules, is for seeking compensation de novo. As per the said procedure, the greater liability has been fastened on the police officers, registering authority, Nodal Officer and Designated Officer of the insurance companies. In such a situation, at least officers of the police department must be well equipped and conversant with the provisions and rules and efficient to discharge the function as specified in the Act and the Rules. Ordinarily the police officers may be efficient in investigation of the complicated criminal cases but the procedure as prescribed in the M.V. Amendment Act and Rules is different than the procedure of investigation in criminal cases. In fact it fasten duty on the police officer as a facilitator, in addition to the investigator and submit the report in prescribed forms. Therefore, the trained and equipped police officers may be posted in the police stations constituting a special unit to make investigation for motor accident claim cases. After

going through the procedure, as discussed in detail above, we find some substance in the argument. In our view, the head of the Home Department of the State and the Director General of Police in all States/Union Territories shall ensure the compliance of the Rules by constituting a special unit in the police stations or at least at town level to investigate and facilitate the motor accident claim cases. The said action must be ensured within a period of three months from today.

60. The learned amicus curiae further submitted that in recording the evidence by Claims Tribunal, appointment of local commissioner as per Rule 30 of the MV Amendment Rules 2022 may also be directed, otherwise looking at the pendency of claim cases before the Tribunals, it will cause delay in disposal.

61. In our view the said contention is as per Rule 30. Where the insurance company disputes the liability, the Claims Tribunal is duty bound to record the evidence through the local commissioner and the fee/expenses of such local commissioner shall be borne by the insurance company.

62. Accordingly, this appeal is decided with the following directions:

i) The appeal filed by the owner challenging the issue of liability is hereby dismissed confirming the order passed by the High Court and MACT.

ii) On receiving the intimation regarding road accident by use of a motor vehicle at public place, the SHO concerned shall take steps as per Section 159 of the M.V. Amendment Act.

iii) After registering the FIR, Investigating Officer shall take recourse as specified in the M.V. Amendment Rules, 2022 and submit the **FAR** within 48 hours to the Claims Tribunal. The **IAR** and **DAR** shall be filed before the Claims Tribunal within the time limit subject to compliance of the provisions of the Rules.

iv) The registering officer is duty bound to verify the registration of the vehicle, driving licence, fitness of vehicle, permit and other ancillary issues and submit the report in coordination to the police officer before the Claims Tribunal.

vi) The flow chart and all other documents, as specified in the Rules, shall either be in vernacular language or in English language, as the case may be and shall be supplied as per Rules. The Investigating Officer shall inform the victim(s)/legal representative(s), driver(s), owner(s), insurance companies and other stakeholders with respect to the action taken following the M.V. Amendment Rules and shall take steps to produce the witnesses on the date, so fixed by the Tribunal.

vii) For the purpose to carry out the direction No. (iii), distribution of police stations attaching them with the Claim Tribunals is required. Therefore, distribution memo attaching the police stations to the Claim Tribunals shall be issued by the Registrar General of the High Courts from time to time, if not already issued to ensure the compliance of the Rules.

viii) In view of the M.V. Amendment Act and Rules, as discussed hereinabove, the role of the Investigating Officer is very important. He is required to comply with

the provisions of the Rules within the time limit, as prescribed therein. Therefore, for effective implementation of the M.V. Amendment Act and the Rules framed thereunder, the specified trained police personnel are required to be deputed to deal with the motor accident claim cases. Therefore, we direct that the Chief Secretary/Director General of Police in each and every State/Union Territory shall develop a specialized unit in every police station or at town level and post the trained police personnel to ensure the compliance of the provisions of the M.V. Amendment Act and the Rules, within a period of three months from the date of this order.

viii) On receiving **FAR** from the police station, the Claims Tribunal shall register such **FAR** as Miscellaneous Application. On filing the **IAR** and **DAR** by the Investigating Officer in connection with the said **FAR**, it shall be attached with the same Miscellaneous Application. The Claims Tribunal shall pass appropriate orders in the said application to carry out

the purpose of Section 149 of the M.V. Amendment Act and the Rules, as discussed above.

ix) The Claim Tribunals are directed to satisfy themselves with the offer of the Designated Officer of the insurance company with an intent to award just and reasonable compensation. After recording such satisfaction, the settlement be recorded under Section 149(2) of the M.V. Amendment Act, subject to consent by the claimant(s). If the claimant(s) is not ready to accept the same, the date be fixed for hearing and affording an opportunity to produce the documents and other evidence seeking enhancement, the petition be decided. In the said event, the said enquiry shall be limited only to the extent of the enhancement of compensation, shifting onus on the claimant(s).

x) The General Insurance Council and all insurance companies are directed to issue appropriate directions to follow the mandate of Section 149 of the M.V. Amendment Act and the amended Rules. The appointment of the Nodal Officer prescribed in Rule 24

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and the Designated Officer prescribed in Rule 23 shall be immediately notified and modified orders be also notified time to time to all the police stations/stakeholders.

xi) If the claimant(s) files an application under Section 164 or 166 of the M.V. Amendment Act, on receiving the information, the Miscellaneous Application registered under Section 149 shall be sent to the Claims Tribunal where the application under Section 164 or 166 is pending immediately by the Claims Tribunal.

xii) In case the claimant(s) or legal representative(s) of the deceased have filed separate claim petition(s) in the territorial jurisdiction of different High Courts, in the said situation, the first claim petition filed by the claimant(s)/legal representative(s) shall be maintained by the said Claims Tribunal and the subsequent claim petition(s) shall stand transferred to the Claims Tribunal where the first claim petition was filed and pending. It is made clear here that the claimant(s) are

not required to apply before this Court seeking transfer of other claim petition(s) though filed in the territorial jurisdiction of different High Courts. The Registrar Generals of the High Courts shall take appropriate steps and pass appropriate order in this regard in furtherance to the directions of this Court.

xiii) If the claimant(s) takes recourse under Section 164 or 166 of the M.V. Amendment Act, as the case may be, he/they are directed to join Nodal Officer/Designated Officer of the insurance company as respondents in the claim petition as proper party of the place of accident where the FIR has been registered by the police station. Those officers may facilitate the Claims Tribunal specifying the recourse as taken under Section 149 of the M.V. Amendment Act.

xiv) Registrar General of the High Courts, States Legal Services Authority and State Judicial Academies are requested to sensitize all stakeholders as early as possible with respect to the provisions of Chapters XI and XII of the M.V. Amendment Act and the M.V.

Amendment Rules, 2022 and to ensure the mandate of law,

xv) For compliance of mandate of Rule 30 of the M.V. Amendment Rules, 2022, it is directed that on disputing the liability by the insurance company, the Claims Tribunal shall record the evidence through Local Commissioner and the fee and expenses of such Local Commissioner shall be borne by the insurance company.

xvi) The State Authorities shall take appropriate steps to develop a joint web portal/platform to coordinate and facilitate the stakeholders for the purpose to carry out the provisions of M.V. Amendment Act and the Rules in coordination with any technical agency and be notified to public at large.

62. Registry of this Court is directed to circulate the copy of this judgment to the Registrar General of all High Courts and the Chief Secretary/Administrator of all the States/Union

Territories for implementation and to carry out the purpose of Motor Vehicle Amendment Act and the Rules made thereunder.

.....J.
(S. ABDUL NAZEER)

.....J.
(J.K. MAHESHWARI)

New Delhi;
December 15, 2022.