

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

FAO 842/2003

Date of Decision : 8th June 2009

RAJESH TYAGI & ORS. Appellants
Through : Mr. A.K. Singh, Adv.

versus

JAIBIR SINGH & ORS. Respondents
Through : Mr. Manoj R. Sinha, Adv. for R-3.
Ms. Mukta Gupta, Standing
Counsel and Mr. Vikas Pahwa,
Add. Standing Counsel for Delhi
Police. Mr. V.P. Choudhary, Sr. Adv.
and Mr. Anup Bhambhani, amicus
curiae.

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

1. The DCP (Headquarters) of the Delhi Police has filed the affidavit dated 3rd June, 2009 in which it was stated that a meeting was convened by the Commissioner of Police on 30th May, 2009. It is stated that various steps are being taken to ensure the foolproof compliance of the provisions of the Motor Vehicles Act, 1988 and Central Motor Vehicle Rules, 1999 and SHOs of all the Police Stations

have been directed to comply with Section 158(6) of the Motor Vehicles Act, 1988 read with Rule 150 and Form 54 of the Central Motor Vehicle Rules, 1999 and the Joint Commissioners of Police, Deputy Commissioners of Police and Assistant Commissioners of Police have been directed to closely monitor the compliance.

2. It is further stated in the affidavit that Accident Information Reports (Form 54) as well as other information as per Motor Vehicles Act/Rules is being put on Delhi Police Website www.delpolice.nic.in and the MACTs/Insurance Companies will be able to download these reports from the website. It is further stated that various measures shall be taken as detailed in the Minutes of the Meeting dated 30th May, 2009 for strict enforcement of Section 158(6) of the Motor Vehicles Act. The Commissioner of Police has formulated the following monitoring mechanism:-

- (i) Maintenance of a register at police station level indicating the details such as FIR Number, date of dispatch of Form 54 to the learned MACT, etc. A

column containing details of information not included in Form 54 along with reasons for its non availability shall also be maintained in the register.

- (ii) Delivery of FIR to the Claims Tribunals on the date of registration.
- (iii) Entries in red ink in FIR index about date of dispatch of AIR.
- (iv) Checking of AIR (Form 54) dispatch records mandatorily during six monthly inspections by Gazetted Officer.
- (v) ACsP/SHOs shall forward final reports to the Magistrate only on production of dispatch of AIR (Form 54) to the learned MACT, owner and insurer of the offending vehicle and the victim/his or her family.
- (vi) MACT Monitoring Cell headed by Inspector to be set up in each District to monitor delivery of AIR (Form 54) in time.

- (vii) Monthly meeting of ACsP, PG Cell, In-charge of MACT
Monitoring Cells with the Claims Tribunals.
- (viii) Appointment of Naib Court (a police officer) by District
DCsP with the Claims Tribunals.
- (ix) Review of pendency of AIR (Forms 54) by District DCsP
in weekly law and order meeting.
- (x) Monitoring of timely delivery of AIR (Form 54) through
new computerized system of Police Station.
- (xi) Placement of AIR (Form 54) on the website so that it
can be downloaded by the Claims Tribunals, Insurance
Companies and claimants.
- (xii) Installation of checklist boards in SHOs rooms.
- (xiii) Establishment of District Cells as pilot project in three
districts.

3. The Delhi Police has also examined the suggestions given by the learned Amicus Curiae and has accepted some of the suggestions which are as under:-

(i) Additional information in Accident Information Report.

The names and addresses of the next of kin shall be provided in the Accident Information Report.

The information relating to the nature of injuries suffered by the victim, name and addresses of the eye-witnesses and particulars of permit and fitness shall also be provided upon orders of this Court.

(ii) Furnishing of documents along with Accident Information Report.

The Police has no objection in furnishing the documents that are available at the time of filing of the AIR (Form 54).

However, the documents which are not available at the time of filing of the AIR, shall be furnished immediately upon being received. It is further submitted that hospitals delay the issuance of MLC and post mortem reports and, therefore, directions may be issued to the hospitals to expedite the issuance of MLC/post mortem report in accident cases.

- (iii) Release of offending vehicle on superdari only after driver and owner have produced all the relevant documents, namely, driving licence, registration cover, insurance, permit and fitness.**

The police has agreed to implement this suggestion upon directions by this Court.

- (iv) Production of driver, owner of the offending vehicle before motor accident Claims Tribunals.**

The police has agreed to implement this suggestion upon directions by this Court.

- (v) Production of eye witnesses before learned Tribunal.**

The directions of this Court are required for implementation of this suggestion.

4. The undertaking of Delhi Police to strictly enforce Section 158(6) of the Motor Vehicles Act read with Rule 150 and Form 54 of the Central Motor Vehicles Rules and also take additional measures detailed in the affidavit dated 30th May, 2009 and the Minutes of Meeting dated 30th May, 2009 is accepted. In terms of the said undertaking of the Delhi Police, the Accident Information Report (Form 54) be submitted with the concerned Motor Vehicles Tribunals within

30 days of the registration of FIR of accident. The Accident Information Report shall contain the following additional information:-

"14. In case of death: Names and address of the next of kin of the deceased.

15. In case of injury: Nature of injuries suffered

16. Names and addresses of the eye-witnesses.

17. In case of transport vehicles:

(i) Particulars of the permit.

(ii) Particulars of the fitness certificate".

5. The Accident Information Report shall be accompanied by the attested copies of the FIR, site plan, photographs, registration cover, driving licence, insurance policy, permit and fitness certificate of the offending vehicle. MLC and Post - mortem report shall be submitted as soon as they are received. If any of the aforesaid information or document is not available at the time of submitting the AIR, the same may be submitted as soon as the same is received.

6. Simultaneously upon filing of AIR by the SHO with the Claims Tribunal, the copy of the AIR be furnished to the Insurance Company along with the aforesaid documents. The four nationalized companies, i.e. New India Assurance Company Ltd., Oriental Insurance Company Ltd., United India Insurance Company Ltd. and National Insurance Company Ltd. have set up a centralized cell at Oriental House, A-25/27, Asaf Ali Road, New Delhi-110002 for receiving AIR. The Police shall, therefore, send the copy of the AIR (Form-54) to these insurance companies at the aforesaid address.

7. The insurance companies shall investigate the claim upon receipt of the AIR in terms of their Third Party Claim Procedure Manual and shall submit their reply along with the copy of the investigation report and the computation of compensation according to them before the Claims Tribunals within 30 days. If there is no defence under Section 149 of the Motor Vehicles Act, 1988, the Insurance Company shall deposit the admitted amount according to their computation with their reply before the Claims Tribunal. The copy of the AIR furnished

by the Police to the Insurance Company shall be sufficient notice of the institution of the claim petition before the Claims Tribunal.

8. In view of the aforesaid steps being taken by Delhi Police, the Motor Accident Claims Tribunals need to set up the following corresponding procedure:-

- (i) Maintenance of a register for recording of the FIR which shall be received daily from the police stations. The Accident Information Report and private claim petition filed in respect of an FIR be marked in this register.
- (ii) Maintenance of a separate institution register for registering the AIR as miscellaneous application.
- (iii) Listing of AIR on the judicial side and issuance of notice to the claimant, owner, driver and Insurance Company.
- (iv) Notice to the claimant, owner and driver be served through the Investigating Officer.

- (v) Notice of Insurance Company be served through the nominated counsel of each company.
- (vi) AIR be listed as a separate category in the cause list as miscellaneous application.
- (vii) After appearance of the claimant, the AIR be registered as a claim petition.
- (viii) If the claimant has filed a separate claim petition, the AIR be tagged with the claim petition.

9. Copy of this order be sent to all Motor Accident Claims Tribunals and the Insurance Companies for compliance.

10. It is noted that the reasons for delay in disposal of claim cases are as under:-

- (i) Delay in service of the driver and owner of the offending vehicle.
- (ii) Non-appearance of the driver and owner despite service.
- (iii) Non-production of the driving licence by the driver and the owner.

- (iv) Non-production of the insurance policy, registration cover, fitness, service and permit by the owner.
- (v) The plea of the owner that he has sold the vehicle before the accident.
- (vi) Avoidance of liability by the insurance company on the ground that the driver and owner are not producing the relevant documents.
- (vii) In the case of uninsured vehicles, claimants are unable to enforce the award against the owner.

11. The delay in disposal of the claim petitions can be avoided by directing the police and the concerned Magistrate not to release the vehicle on superdari till the driver and owner appears before the Clams Tribunals and produce all the relevant documents and if the vehicle is uninsured, the owner should furnish sufficient security or the vehicle should be attached before judgment so that the recovery of the award to the extent of the value of the offending vehicle is safeguarded. The Division Bench of this Court has passed an order dated 24th September, 2008 in **W.P.(CrI.)No.878/2007** titled as **Court on its own motion vs. State** to the effect that the blue line buses shall not be

released unless Rs.1,00,000/- is deposited in death cases with the concerned Magistrate.

12. At the initial stages of the investigation till the offending vehicle is released on supardari, the driver and the owner of the offending vehicle are normally in control of the Investigating Officer of the Police and he can produce them before the Claims Tribunal. Investigating officer also has the full access to the eye-witness of the accident. The Investigating Officer of the police can produce the driver and owner before the Claims Tribunal along with the Accident Information Report under Section 158(6) of the Motor Vehicles Act before the Claims Tribunal who can record their statement and verify the documents and if all the documents are in order, the Insurance Company cannot delay or dispute the liability. Necessary guidelines in this regard need to be framed.

13. List before appropriate Bench on 3rd July, 2009 after obtaining orders of Hon'ble the Chief Justice for appropriate directions on the following suggestions:-

- (i) The Investigating Officer shall produce the driver, owner and eye-witnesses of the accident before the MACT along with the Report under Section 158(6) of the Motor Vehicles Act who shall record their statement relating to the driving licence, registration cover, insurance policy, fitness, permit etc. of the offending vehicle before release of the offending vehicle to the owner on superdari.

- (ii) The motor vehicles involved in the accident shall not be released on superdari unless the owner and driver have appeared before the Court of MACT and have furnished all the relevant documents i.e. driving licence, registration cover, insurance policy, fitness, permit etc. of the offending vehicle before release of the offending vehicle to the owner on superdari. If the vehicle is not insured, the vehicle shall be released on superdari only after the owner furnishes sufficient security to the satisfaction of the Court

to pay the compensation or at least equal to the value of
the vehicle.

**J.R. MIDHA
(VACATION JUDGE)**

JUNE 8, 2009