

IN THE HIGH COURT OF DELHI AT NEW DELHI

FAO 842/2003

Date of Decision : JANUARY 15, 2010

RAJESH TYAGI & ORS. Appellants

Through: None.

versus

JAIBIR SINGH & ORS. Respondents

Through: Mr. A.S. Chandhiok, Learned ASG
with Mr.Vikas Pahwa, Add.Standing
Counsel for Delhi Police.
Mr. A.J. Bhambhani, Amicus Curiae
Mr.Jeet Pathak and Mr.C.S.Chauhan
for Ms. Rajdipa Behrui, Amicus
Curiae Mr.Kanwal Choudhary, Adv. for
NIA Mr. Manoj Ranjan Sinha, Adv. for
NIC Mr. K.L. Nandwani and Mr. Sameer
Nandwani, Adv. for Reliance General
Insurance Co. Ltd.
Ms. Suman Bagga and Ms.Jaspreet
Soodan, Adv. for Cholamandalam
Gen. Insurance Co. Ltd.
Ms. Majusha Wadhwa, Adv. for
Oriental Insurance Co. Ltd.

Ms. Anjali Bansal, Adv. for Tata AIG
General Insurance Co. Ltd., Bharti
AXA General Insurance Co. Ltd.
and Raheja QBE General Insurance
Co. Ltd. Ms. Shantha Devi Raman,
Adv. for IFFCO Tokyo General
Insurance Co. Ltd.

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

CM No.785/2010

1. This is an application by Delhi Police for extension of time for commencement of the implementation of the Claims Tribunal Agreed Procedure. The date of commencement of the Pilot Project for implementation of the Claims Tribunal Agreed Procedure was fixed as 15th January, 2010 vide order dated 16th December, 2009. The learned Additional Solicitor General submits that the Delhi Police has decided to give 60 days' training to the police officers for implementation of the Claims Tribunal Agreed Procedure and the list of the officers for such training is being compiled. The Delhi

Police is also preparing the Manual for Investigation of Motor Accident Claim Cases and the Training to the officers shall commence from 1st February, 2010. The date of commencement is, therefore, sought to be extended.

2. In the light of the facts stated above and on the undertaking of the Police to commence the implementation of the Claims Tribunal Agreed Procedure from 2nd April, 2010, extension of 10 weeks is granted to Delhi Police. The Claims Tribunal Agreed Procedure shall now commence from 2nd April, 2010 instead of 15th January, 2010.

3. The application is disposed of.

FAO No.842/2003

1. It has been brought to the notice of this Court that the Hon'ble Supreme Court has passed order dated 17th December,

2009 in SLP (Civil) Nos.11801-11804/2005 in which various directions have been issued including a direction relating to the injuries suffered by the victims of the road accident which are reproduced hereunder:-

"16. In cases of injuries to any accident victim, where the liability is not disputed, the insurer should offer treatment at its cost to the injured, without waiting for an award of the Tribunal. If insurance companies can meet the bills for treatment of those who have taken a medical insurance policy, we see no reason why they should not extend a similar treatment to the accident victims of vehicles insured with them."

"17. ... Similarly in cases of injuries, the insurers can offer treatment in hospitals approved by it and meet the expenses or pay the bills, or if the victim has already undergone the treatment, reimburse the cost of treatment. It can also reimburse other items of special damages, the damages for pain suffering, which is also standardized in several decisions of this Court. By such voluntary payment there will be all round benefits. The insurers save interest and litigation cost and discharges their obligation to the society. The victims will be relieved from financial hardship and the benefit

from timely effective treatment Burden on courts will be reduced and judicial man power can be diverted to more complex cases.”

2. It has been pointed out by the learned amicus curiae that no provision has been made in the Claims Tribunal Agreed Procedure for cashless treatment of the victims of the road accidents. Most of the victims of the road accidents belong to the poorest strata of the society who have no means to bear the expenses of treatment/surgery to be performed. It is, therefore, suggested by the leaned amicus curiae that the following clause 3(3) may be incorporated in the Claims Tribunal Agreed Procedure:-

“3(3). In case of grievous injuries suffered by a victim of the road accident who may require some surgery or shifting to some other hospital for better treatment, the Investigating Officer of the Police shall verify the existence of the Insurance policy in the first instance and shall submit the verification report and the copy of the Insurance policy along with the Report under Clause 3(2) to the Claims Tribunal within 48 hours of the accident whereupon the Claims Tribunal shall, after hearing

the Insurance company and satisfying itself about the existence of the Insurance policy, direct the Insurance company to directly pay the hospitalization charges to the concerned hospital. However, this payment by the Insurance company shall be subject to the final outcome of the claim and in the event of Insurance company having legal defence available to it to avoid the liability, recovery rights in respect of such amount paid by the Insurance company shall be given by the Claims Tribunal to the Insurance company to recover the same from the driver and owner of the offending vehicle. The Claims Tribunal shall send the said order to the concerned hospital. If the Tribunal finds that the victim of the road accident needs shifting to some other hospital for better treatment then the Tribunal shall also pass appropriate order in this regard.”

3. The Claims Tribunal Agreed Procedure has been formulated by the Committee appointed by this Court with the consent of all the insurance companies. The aforesaid proposal shall be examined by the same Committee which shall consult the Insurance Companies and submit the report to this Court within a period of four weeks.

4. List for the report of the Committee on 15th February, 2010 at 2.30 PM.

5. The Insurance Companies have not placed on record the list of their Nodal Officers in terms of order dated 16th December, 2009. Let the list of Nodal Officers of all the Insurance companies be placed on record before the next date of hearing.

6. Learned Additional Standing Counsel for Delhi Police submits that the Motor Accident Claims Manual is under preparation. Let the same be also placed on record on the next date of hearing.

7. Ms. Anjali Bansal, learned counsel for the Bharti AXA General Insurance Company Ltd. and Raheja QBE General Insurance Company Ltd. submits that she had appeared on 16th December, 2009 and had filed an affidavit on behalf of Bharti AXA General Insurance Company Ltd. but her appearance has not been recorded in the order dated 16th December, 2009. The appearance of Ms.

Anjali Bansal, Advocate is taken on record on behalf of Bharti AXA General Insurance Co. Ltd. and Raheja QBE General Insurance Co. Ltd. on 16th December, 2009.

8. Copy of this order be given Dasti to learned counsel for the parties under the signature of the Court Master.

9. Copy of this order be also sent to the Convenor of the Committee appointed by this Court.

10. Copy of this order be also sent to Mr. Sundar, Chairman of the Expert Committee appointed by the Government of India to examine and frame the new law on motor accident cases. The Expert Committee may also consider incorporation of the suggestions contained in this order while framing the new law.

11. Copy of this order be also sent to all the Claims Tribunals through the Registrar (Vigilance) of this Court.

J.R. MIDHA, J

JANUARY 15, 2010