

20.07.2009

Present : Ms. Mukta Gupta, Standing Counsel for Delhi Police.
Mr. V.P. Choudhary, Sr. Adv. with Ms. Sushma, Adv. and
Mr. A.J. Bhambhani, Adv. amicus curiae. Mr. Kanwal
Choudhary, Adv. for New India Assurance Co. Ltd.
Ms. Manjusha Wadhwa, Adv. for Oriental Insurance Co.
Ltd. Mr. Pradeep Gaur, Adv. for National Insurance Co.
Ltd. Mr. K.L. Nandwani, Adv. for United India Insurance
Co. Ltd.

FAO.No.842/2003

1. Ms. Mukta Gupta, learned Standing Counsel for Delhi Police submits that the Delhi Police has filed the status report for the month of June, 2009. The status report has also been received from the Claims Tribunals. Let the Registrar (Vigilance) examine the status reports filed by the Delhi Police and Claims Tribunals and submit his comments with respect to the compliance by all concerned before the next date of hearing.

2. It has been pointed out by the learned Standing counsel that Annexure 'G' to the report contains the district wise compliance of all the districts. It has been further pointed out that in some cases, the Claims Tribunals have refused accept the Accident Information Report without the complete documents and the presence of the injured and the accused. The learned Standing counsel submits that the clarification be issued to avoid the rejection of the Accident Information Report by the Claims Tribunals. The learned Standing counsel further points out that one Claims Tribunal, has issued direction regarding filing of undertaking in particular formats.

3. It is clarified to the extent that the learned Tribunals shall accept the Accident Information Reports along with the available information and documents in terms of order dated 8th June, 2009 and if any information/document is not available at the time of

submitting of the Accident Information Report, the learned Tribunal shall fix a date for furnishing of the deficient information/document.

4. On 13th July, 2009, Government of NCT of Delhi has notified the Delhi Motor Accident Claims Tribunals Rules, 2008. Rule 3 defines the duties of Investigating Officer of Delhi Police. Rule 4 defines the duties of Registering Authority. Rule 5 defines the duties of Insurance Company. Rule 6 prohibits the release of uninsured motor vehicle involved in the accident or where the registered owner fails to furnish copy of the insurance policy unless the registered owner furnishes sufficient security to the satisfaction of the Court to pay the compensation that may be awarded in the motor accident claim. On the expiry of three months of the seizure of the vehicle, such motor vehicle shall be sold in public auction by the Magistrate and the proceeds thereof shall be deposited with the Claims Tribunal to be adjusted against the award. Under Rule 7, the

reports of the Investigating Officer of the Police and the Registering Authority as well as the confirmation by Insurance Company under Rule 5(b) shall be presumed to be correct and the same shall be read in evidence without formal proof. Rule 18 empowers the Claims Tribunals to direct the Medical Officer or Board of Medical Officers to examine the injured and submit a report indicating the degree and extent of disability within 15 days of the receipt of such directions. Rule 27 provides the guidelines for protection of the award amount. Rule 31 empowers the Claims Tribunals to execute the award like a decree of Civil Court. Rule 32 vests the Claims Tribunals with all the powers of a Civil Court for discharging its functions.

5. The Motor Accident Claims Tribunals Rules were drafted by Mr. R.K. Gauba, Registrar (Vigilance) of this Court and were sent to Government of NCT of Delhi back as in March, 1999 but the same

were kept pending. Notice was, therefore, issued to Government of NCT of Delhi on 22nd June, 2009 in FAO No.492/1999 and some suggestions were given by this Court to be incorporated in the said Rules. The learned counsel for Government of NCT of Delhi informed this Court on 16th July, 2009 that the Rules have been notified by Government of NCT of Delhi on 13th July, 2009 and the suggestions by this Court are being processed and the same shall be incorporated by an amendment to the Rules which is likely to take 10 – 12 weeks. The Delhi Motor Accident Claims Tribunals Rules, 2008 are very exhaustive and shall streamline the law relating to motor accident claims and this Court appreciates the work of Mr. Gauba in this regard.

6. The Motor Accident Claims Tribunal Rules, 2008 have been circulated by the Registrar General to the Claims Tribunals and the Metropolitan Magistrates.

7. Ms. Mukta Gupta, learned Standing counsel for Government of NCT of Delhi shall ensure that the new Rules are circulated to concerned police officers, public prosecutors, registration authorities and hospitals under the Government of NCT of Delhi. The Government of NCT of Delhi and Delhi Police shall give adequate publicity to these Rules.

8. Ms. Monika Garg, learned Standing Counsel for Union of India shall ensure circulation of these rules to all the hospitals in Delhi under the Central Government.

9. The nominated counsels for all the four nationalized insurance companies are present and they shall circulate these rules to all the insurance companies for compliance of their duties specified in Rule 5.

10. List for the report of the Registrar (Vigilance) with respect to the status report of Delhi Police and the Claims Tribunals on 4th

September 2009 at 2:30 p.m. Considering the voluminous reports filed by the Delhi Police and Claims Tribunals, Registrar (Vigilance) may take the assistance of the OSD (Vigilance) in this matter.

11. Vide order dated 8th June, 2009, this case was directed to be listed before Hon'ble the Chief Justice for adjudication on two issues of public interest out of which one issue related to the prohibition on the release of uninsured vehicles on superdari which has been incorporated in the Delhi Motor Accident Claims Tribunal Rules, 2008 notified on 13th July, 2009. Rule 6 clearly prohibits the Courts from releasing the uninsured vehicles as well as the vehicles in respect of which registered owner fails to furnish copy of the insurance policy unless the registered owner furnishes sufficient security to the satisfaction of the Court. These Rules have come into force on 13th July, 2009 and, therefore, this issue does not survive any more.

12. With respect to the second issue relating to the directions to the Investigating Officer of the Police to produce the driver, owner and eye-witness of the accident before the Claims Tribunals, the suggestion has been given to Government of NCT of Delhi. Government of NCT of Delhi is contemplating to amend the Rules to incorporate the suggestions. The suggestions are contained in the order dated 22nd June, 2009 passed in FAO No.492/1999. If the Government of NCT of Delhi carries out the necessary amendments, the second question would also be resolved without requirement of any adjudication.

13. The learned Standing counsel for Government of NCT of Delhi as well as amicus curiae suggest that the action of Government of NCT of Delhi with respect to the amendment of Rules be awaited. The date of 24th July, 2009 is, therefore, cancelled and fresh date

shall be fixed after the response of Government of NCT of Delhi in
FAO No.492/1999.

14. The learned Standing counsel for Delhi Police submits that the private insurance companies be also directed to appoint their nodal officer and the names, addresses, e-mail and telephone number of the nodal officer be provided to Delhi Police so that the copies of the Accident Information Reports can be served on them.

15. Mr. Pankaj Seth, Advocate has furnished the names, addresses and telephones numbers of the nodal officers of the private insurance companies which are as under:-

1. Mr. Sanjay Gupta,
Assistant Manager-Legal
Bajaj Allianz General Insurance Co. Ltd.
Second Floor, 1 DLF Industrial Plot,
Moti Nagar,
Delhi-110015
Mobile No.9910385880
Email: sanjay.gupta@bajajallianz.co.in

2. Mr. Mohommad Azhar Wasi,
Branch Claims Manager,
TATA AIG General Insurance Co. Ltd.,
1st Floor, Lotus Tower,
Community Centre,
New Friends Colony,
New Delhi-110025
Mobile No.9873417445
Email: mohdazhar.wasi@tata-aig.com

3. Mr. Rajneesh Kohli,
DGM,
Cholamandalam MS General Insurance Co. Ltd.,
1st Floor, Plot No.6,
Pusa Road, Metro Pillar –81,
New Delhi-110005
Mobile No.9818188051
Email: KohliR@cholams.murugappa.com

4. Mr. Gaurav Gaba,
Manager – Legal,
ICICI Lombard General Insurance Co. Ltd.
315, 3rd Floor, Aggarwal City Mall,
Plot No.4, Road no.44,
Pitampura
New Delhi-110034
Mobile No.9873915301
Email: gaurav.gaba@icicilombard.com

5. Mr. Navneet Goyal,
Senior Executive – Legal,
Reliance General Insurance Co. Ltd.,
2nd Floor, 60 Okhla Industrial Area, Phase-III,
New Delhi.
Mobile No.9810708784, 9310612538
Email: navneet.goyal@relianceada.com

6. Mr. Kapil Banati,
Assistant Manager – Legal,
IFFCO TOKIO General Insurance Co. Ltd.,
FAI Building, 10 Shaheed Jeet Singh Marg,
Qutub Institutional Area,
New Delhi.
Mobile No.9818026809
Email: kapil.banati@itgi.co.in

7. Mr. S. Srinivasan,
GM,
Royal Sundaram Alliance Insurance Co. Ltd.
"Sorrento Building", No.6, 1st floor,
Lattice Bridge Road, Adyar,
Chennai – 600020
Mobile No.09940132004
Email: s.srinivasan@royalsundaram.in

16. The learned Standing counsel may circulate this list to the concerned police officers to ensure the service of the Accident Information Reports on them.

17. Copy of this order be given 'Dasti' to learned Standing counsel for Government of NCT of Delhi and Union of India, amicus curiae and the nominated counsels for the insurance companies under the signature of Court Master. Copy of this order be also sent to the Claims Tribunals through Registrar (Appellate).

J.R. MIDHA, J

JULY 20, 2009