

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

FAO 842/2003

Date of Decision : MAY 28, 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. Section 158(6) was incorporated in the Motor Vehicles Act, 1988 in the year 1994. Section 158(6) provides that the SHO of the Police Station shall send the Accident Information Report to the Motor Accident Claims Tribunals within 30 days of recording of the FIR and a copy to the concerned Insurance Company. Section 158(6) of the Motor Vehicles Act is reproduced hereunder:-

Section 158(6) - As soon as any information regarding any accident involving death or bodily injury to any person is recorded or report under this section is completed by a police officer, the officer incharge of the police station shall forward a copy of the same within thirty days from the date of recording of information or, as the case may be, on completion of such report to the Claims Tribunal having jurisdiction and a copy thereof to the concerned insurer, and where a copy is made available to the owner, he shall also within thirty days of receipt of such report, forward the same to such Claims Tribunal and Insurer."

2. Rule 150 of Central Motor Vehicle Rules, 1989 provides that the Accident Information Report under Section 158(6) shall be in Form 54 which is reproduced hereunder:-

"Form 54

[See rule 150 (1) and (2)]

ACCIDENT INFORMATION REPORT

1. Name of the police station \_\_\_\_\_
2. CR No./Traffic accident report \_\_\_\_\_
3. Date, time and place of the accident \_\_\_\_\_
  
4. Name and full address of the injured/deceased \_\_\_\_\_
5. Name of the hospital to which he/she was removed \_\_\_\_\_
6. Registration number of vehicle and the type of the vehicle \_\_\_\_\_
7. Driving licence particulars:  
(a) Name and address of the driver \_\_\_\_\_  
(b) Driving licence number and date \_\_\_\_\_

- of expiry \_\_\_\_\_
- (c) Address of the issuing authority \_\_\_\_\_
- (d) Badge No. in case of public service  
vehicle \_\_\_\_\_
8. Name and address of the owner of the  
vehicle at the time of the accident \_\_\_\_\_
9. Name and address of the insurance  
company with whom the vehicle was  
insured and the particulars of the  
Divisional Officer of the said  
insurance company \_\_\_\_\_
10. Number of insurance policy/insurance  
certificate and the date of validity of  
the insurance policy/insurance  
certificate \_\_\_\_\_
11. Registration particulars of the vehicle  
(class of vehicles) \_\_\_\_\_
- (a) Registration No. \_\_\_\_\_
- (b) Engine number or motor number  
in the case of Battery Operated  
vehicles \_\_\_\_\_
- (c) Chasis No. \_\_\_\_\_
12. Route permit particulars \_\_\_\_\_
13. Action taken, if any, and the result  
Thereof" \_\_\_\_\_

3. The importance of this Accident Information Report by the police is that Section 166(4) mandates the Claims Tribunal to treat the Accident Information Report as an application for compensation. However, the police was not following Section 158(6) of the Motor Vehicles Act which was brought to the notice of the Hon'ble Supreme Court in the case of General Insurance Counsel vs. State of Andhra Pradesh, IV (2007) ACC

385 (SC). Vide judgment dated 9<sup>th</sup> July, 2007 the Hon'ble Supreme Court directed all the State Governments and Union Territories to instruct all concerned police officers to comply with the requirements of Section 158(6) of the Motor Vehicles Act read with Rule 150 and Form 54 of the Central Motor Vehicles Rules. It was further directed that periodical checking be done by the concerned Inspector General of Police to ensure that the requirements are being complied and appropriate action be taken in cases of non-compliance. The directions of the Hon'ble Supreme Court in the said judgment are reproduced as under:-

"It is, therefore, directed that all the State Governments and the Union Territories shall instruct, if not already done, all concerned police officers about the need to comply with the requirement of Section 158(6) keeping in view the requirement indicated in Rule 150 and in Form 54. Periodical checking shall be done by the Inspector General of Police concerned to ensure that the requirements are being complied with. In case there is non-compliance, appropriate action shall be taken against the erring officials. The Department of Transport and Highway shall make periodical verification to ensure that action is being taken and in case of any deviation immediately bring the same to the notice of the concerned State Government/Union

Territories so that necessary action can be taken against the concerned officials.”

4. On 21<sup>st</sup> April, 2009, this court issued notice to the Commissioner of Police to report whether the aforesaid directions of the Supreme Court regarding Section 158(6) of the Motor Vehicles Act are being followed. The data with respect to the compliance for the last 22 months i.e. from the date of the judgment of the Hon’ble Supreme Court was also directed to be placed on record. The particulars of the periodical checking required to be done by the Commissioner of Police in terms of directions of the Hon’ble Supreme Court were also directed to be placed on record. If any action has been taken against any erring officer for non-compliance of Section 158 (6), the same was also directed to be placed on record by an affidavit.

5. The Accident Information Report by the police under Section 158(6) is to be treated as an application for compensation by the claims Tribunal under Section 166(4) of the Motor Vehicles Act and, therefore, direction was also issued to the Claims Tribunals on 21<sup>st</sup> April, 2009 to

place on record the report of compliance of Section 166(4) and the data for the last 22 months from the date of the judgment of the Supreme Court giving details as to how many reports have been received from the police and whether the same have been treated as application for compensation.

6. In pursuance to the above directions, an affidavit dated 18<sup>th</sup> May, 2009 was filed by the Dy. Commissioner of Police (Hqrs.) on behalf of the Commissioner of Police stating that the information in prescribed proforma was being sent to the Motor Accident Claims Tribunals as per Annexure-R-B containing the details of 15,378 accidents from July, 2007 to April, 2009 in which the information in the prescribed proforma had been sent to the Motor Accident Claims Tribunals.

7. On 18<sup>th</sup> May, 2009, Motor Accident Claims Tribunals also submitted their reports stating that they have not received any Accident Information Report in the prescribed proforma from the Police during the last 22 months.

8. Considering the contradictory stand taken by the Police that they

have furnished the Accident Information Forms to the Tribunals during the last 22 months and the denial of the same by the Motor Accident Claims Tribunals, the Delhi Police was directed to submit the report in respect of eleven Police Stations specified in the order dated 18<sup>th</sup> May, 2009 about the compliance of Section 158(6) mentioned in their affidavit dated 18<sup>th</sup> May, 2009.

9. The learned Standing Counsel for Delhi Police has today handed over a fresh affidavit of Dy. Commissioner of Police (Hqrs.) along with the affidavits of eleven SHOs. The Dy. Commissioner of Police (Hqrs.) in the affidavit dated 27<sup>th</sup> May, 2009 seeks to withdraw the previous affidavit dated 18<sup>th</sup> May, 2009 on the ground that the Accident Information Reports have not been furnished to the Motor Accident Claims Tribunals and incorrect statement had been made in the previous affidavit dated 18<sup>th</sup> May, 2009. The affidavits of the SHOs filed today also reveal that the Accident Information Reports were not being filed in most of the cases with the Motor Accident Claims Tribunals.

10. From the affidavit dated 27<sup>th</sup> May, 2009 filed by the Dy.

Commissioner of Police (Hqrs.), it is clear that (i) Section 158(6) is not being complied with by the Police and; (ii) an incorrect affidavit has been filed before this Court.

11. The learned Standing Counsel for Delhi Police submits that Section 158(6) shall be strictly complied with in future and the Delhi Police is prepared to further streamline the system so that the victims of the road accident get compensation expeditiously.

12. Section 158(6) of the Motor Vehicles Act provides that the Police shall forward one copy of the Accident Information Report to the Motor Accident Claims Tribunal and one copy to the Insurance Company. The purpose is that immediately upon receipt of the intimation from the Police, the Insurance Company can investigate the claim and if the claim is found to be genuine, the same can be settled without the intervention of the Motor Accident Claims Tribunals.

13. It is noted that this is not the first case in which this Court has shown concern on the non-compliance of Section 158(6) of the Motor Vehicles Act.

14. On 28<sup>th</sup> October, 1996, a Public Interest Litigation titled All India Lawyers Union Vs. Govt. Of NCT – C.W.P. CW-4076/1996 was filed in this Court in which notice was issued to the Commissioner of Police on 17<sup>th</sup> October, 1997 to report about the compliance of Section 158(6) of the Motor Vehicles Act, 1988. The relevant portion of the order dated 17<sup>th</sup> October, 1997 is reproduced hereunder:-

“Mr. Aggarwal has also brought to our notice the provisions of sub-Section (6) of Section 158. The said provision stipulates that as soon as any information regarding any accident involving death or bodily injury to any person is recorded or report under this section is completed by a police officer, the officer Incharge of the police station shall forward a copy of the same within thirty days from the date of recording of information or, as the case may be, on completion of such report to the Claims Tribunal having jurisdiction and a copy thereof to the concerned insurer, and where a copy is made available to the owner, he shall also within thirty days of receipt of such report, forward the same to such Claims Tribunal and Insurer. Sub-Section (4) of Section 166 provides that the Claims Tribunals shall treat any report of accidents forwarded to it under sub-Section (6) of Section 158 as an application for compensation under this Act. Learned counsel submits that he has learnt that no report under Section 158 (6) has ever been submitted to the Tribunals even though sub-Section (6) of Section 158 was brought on the statute book nearly three years ago. We would examine this aspect only after receipt of

a report from the Commissioner of Police as to whether such reports have been sent or not. Let a copy of this order be sent to Commissioner of Police. Ms. Ahlawat will obtain requisite particulars from the Commissioner of Police/Police Department and file an affidavit on this aspect within three weeks."

15. In pursuance to the above order, an affidavit was filed by the Dy. Commissioner of Police (Hqrs.), Delhi Police on 18<sup>th</sup> November, 1997 in which it was stated that the SHOs were not aware of the latest amendment of the Motor Vehicles Act and the procedure which they were required to follow. It was further stated that instructions have now been issued to all the DCPs directing them to strictly comply with Section 158(6) of the Motor Vehicles Act. The instructions issued to the DCPs were filed as Annexure R-1 to the affidavit. The relevant portion of the affidavit is as under:-

"2. That pursuance to the orders passed by this Hon'ble Court on 17<sup>th</sup> of October, 1997, the information was sought from all Districts D.C.Ps. in regard to the fact whether the S.H.Os. are sending the copies of the F.I.R. to the concerned Motor Accident Claim Tribunal within 30 days as per provision of Section 158 Sub-Section 6 of the Motor Vehicle Act.

3. That as per the reports received, the copy of F.I.R. in accident cases were not being sent by the S.H.Os. to the Accident Claims Tribunal probably the S.H.Os. were not aware of the latest amendment in the Motor Vehicle Act and the procedure which they were to follow. However, in the normal course they are handing over the copies of the F.I.R. to the next kin of victim, so that they can take their case to Motor Accident Claim Tribunal.

4. That now the instructions have been issued to D.C.Ps. of all Districts/Crime and Railway, I.G.I. Air Port and Traffic, Delhi/New Delhi, directing them that provisions of Sections 158 sub-section 6 of Motor Vehicle Act shall be strictly complied with. District D.C.Ps. will ensure that compliance is made by all S.H.Os. working in their jurisdiction. Copy of the instructions issued is annexed as Annexure R-1.

The above information is placed before this Hon'ble Court in compliance with the orders dated 17<sup>th</sup> of October, 1997."

16. The aforesaid report of the Police was examined by this Court on 15<sup>th</sup> December, 1997 when the Court directed the Dy. Comm. of Police (Hqrs.) to personally appear before the Court on 12<sup>th</sup> February, 1998. The relevant portion of the order dated 15<sup>th</sup> December, 1997 is reproduced hereunder:-

"In terms of directions dated 17<sup>th</sup> October, 1997, affidavit of Shri S.Vasudeva, Deputy Commissioner of Police, Head Quarter-II, Delhi has been filed. It, inter alia, states that the copy of FIR in accident cases were not being sent by the SHOs to the Accident Claims Tribunal probably for the reasons that the SHOs were not aware of the latest amendment in the Motor Vehicle Act and the procedure which they were to follow. The affidavit further states that now instructions as in annexure R-1 have been issued to Deputy Commissioners of Police of all Districts/Crime and Railway, IGI Air Port and Traffic, Delhi directing them to strictly comply with the provisions of Section 158(6) of the Motor Vehicle Act. A perusal of the affidavit and the annexure R-1 clearly shows that even now the Police Authority is totally unaware of the relevant rules and the forms in which report is required to be sent. Learned counsel for the petitioner has drawn our attention to Rule 150 of Central Motor Vehicles Rules, 1989 and Form No.54 appended to the said Rules.

We direct the concerned Deputy Commissioner of Police to be personally present in Court on the next date of hearing to, inter alia, explain whether instructions in terms of the Act and rules particularly in terms of Section 158(6) of the Act have been issued or not."

17. On 16<sup>th</sup> March, 1998, the Dy. Commissioner of Police (Hqrs.) appeared before this Court and assured the implementation of Section

158(6) of the Motor Vehicles Act and monitoring by the Police Headquarters. The assurance of the police was recorded by this Court and the writ petition was disposed of on 16<sup>th</sup> March, 1998. The relevant portion of the order dated 16<sup>th</sup> March, 1998 is reproduced hereunder:-

“Mr. Vasudeva, Dy. Commissioner of Police, Police Headquarter is present in Court. He has brought to our notice a Circular dated 19<sup>th</sup> December, 1997 issued to District Dy. Commissioner of Police and to Dy. Commissioner of Police (Crime) and Indira Gandhi International Airport and Traffic, bringing to the notice of the said officers the requirement of each police station under their respective jurisdiction to send information to MACT in respect of the accidents in the prescribed proforma in compliance of report on implementation of Section 158(6) of Motor Vehicle Act. From the said circular, it appears that the headquarter is monitoring the matters of sending all the FIRs by Police Stations on MACT. We hope that the Police authorities would continue to perform its functions in terms of Section 158(6) of the Act. The MACT on the receipt of the said information shall proceed in the matter in accordance with law.”

18. Despite the aforesaid assurance of the Police and order dated 16<sup>th</sup> March, 1998, Section 158(6) was not complied with by the Delhi Police. Two more Public Interest Litigations were filed in this Court, namely, All

India Lawyers Union Vs. Union of India – C.W.P.Nos.4614/1996 and All India Lawyers Union Vs. Govt. Of National- Capital Territory Of Delhi C.W.P. Nos. 506/1999. An affidavit dated 6<sup>th</sup> September, 1999 was filed by DCP(HQ) of Delhi Police in CWP No.506/1999 in which it was stated that the reports regarding accident cases were being sent to concerned MACT Courts as early as possible in Form 54 of Section 158(6) of the Motor Vehicles Act. The relevant portion of the affidavit dated 6<sup>th</sup> September, 1999 is reproduced hereunder:-

“2. That the reports regarding accident cases are being sent to the concerned M.C.A.T Courts as early as possible in Form 54 in terms of section 158(6) of Motor Vehicle Act 1988.

3. That, however the Delhi Police undertakes to comply with all/any directions given by this Hon’ble Court.”

19. Vide order dated 17<sup>th</sup> August, 2000 in CWP No.4614/1996, Delhi Police was directed to furnish information on affidavit about the number of cases where information has been sent under Section 158(6) of the Motor Vehicles Act whereupon an affidavit was filed by Dy.

Commissioner of Police (Hqrs.) of Delhi Police on 17<sup>th</sup> October, 2000 in

which it was stated as under:-

"1. That pursuant to the directions passed by this Hon'ble court on 17.08.2000 the deponent submits that Police Department has already issued a Circular to all Districts with respect to the compliance of provision of Section 150 and 158 of the Motor Vehicles Act. Copy of the Circular with the proforma is enclosed herewith as Annexure – A.

2. That in compliance to the above Circular all the SHOs of the respective Police Stations are sending reports to the concerned M.A.C.T. Courts to treat them as claim Petition of the injured or deceased family member.

3. That the following are number of cases registered for fatal accidents and bodily injury and information with respect to each case has been sent to the concerned M.A.C.T. Court for further necessary action.

Year	Fatal	Bodily injury
1999	1930	7626
2000 (Upto July)	1161	4851

4. That in view of the submissions made above it is submitted that answering respondents are fully complying with the mandatory provisions of the Motor Vehicles Act."

20. Vide order dated 19<sup>th</sup> October, 2000 in CWP No.4614/1996, the Division Bench of this Court directed the District Judge to collect the information from the Motor Accident Claims Tribunals as to the number of cases in which such information had been received and the action taken. The relevant portion of the order dated 19<sup>th</sup> October, 2000 is reproduced hereunder:-

“From the affidavit filed by the Deputy Commissioner of Police, HQ, it appears that in terms of the requirements of Section 158(6) of the Motor Vehicles Act 1988 read with Rule 150 of the Motor Vehicles 1989 report has been given to the concerned M.A.C.T. in the following number of instances:-

Year	Fatal Accidents	Bodily Injury
1999	1930	7626
2000 (Upto July)	1161	4851

Let the District Judge collect information from the different M.A.C.Ts. and furnish to this Court the number of cases where such information has been received and action under Section 158(6) of the Act or under the relevant provisions applicable to the cases noted above has been taken.”

21. In pursuance to the aforesaid order, the report was submitted by the Tribunals that the police was only sending the copies of the FIRs and no reports under Section 158(6) of the Motor Vehicles Act in Form 54 of the Central Motor Vehicles Rules, 1999 had ever been sent by the Police Stations.

22. Both the aforesaid writ petitions were disposed of by this Court by a common order dated 12<sup>th</sup> April, 2001 observing that the information furnished was not in prescribed form and usually a copy of the FIR was furnished which does not meet the requirement of law. It was directed that the concerned offices should strictly comply with the requirements as stipulated in statutory provisions. The relevant portion of the judgment is reproduced hereunder:-

"7. From the reports received from the Tribunals it is clear that in a large number of cases the information furnished is not in the prescribed format. Usually a copy of the FIR is furnished. Same does not meet the requirement of law. FIR does not contain the required details in most cases. The concerned offices are to strictly comply with the requirements as stipulated in the statutory provisions.

8. It is brought to our notice that when documents are seized after accident, normally copies of those documents are not retained. It would be proper and appropriate if xerox copies of driving license, policy of insurance and/or certificate of insurance are retained before the originals are given on Supardari. That would facilitate the claimant, insured as the case may be to get the particulars and furnish them in the claim petition. Similarly, insurer may get the details verified, and that would facilitate early disposal of claim petitions. We direct the Commissioner of Police to issue appropriate instructions in this regard to the concerned officers."

23. From the aforesaid orders, it is clear that Section 158(6) of Motor Vehicles Act, 1988 has not been implemented by Delhi Police during the last about 15 years despite two orders of this Court and one by the Apex Court. Time and again incorrect affidavits have been filed by Delhi Police before this Court stating that Section 158(6) of the Motor Vehicles Act was being strictly complied with and the Accident Information Reports were being sent to the Motor Accident Claims Tribunals in prescribed Form 54. The affidavit dated 18<sup>th</sup> May, 2009 also contains incorrect statement regarding the filing of the Accident Information Reports in prescribed form during July, 2007 to April, 2009. There is clear

non-compliance of the orders dated 16<sup>th</sup> March, 1998 as well as 12<sup>th</sup> April, 2001 passed by this Court.

24. Considering the non-compliance of the orders dated 16<sup>th</sup> March, 1998 and 12<sup>th</sup> April, 2001 of this Court as well as the filing of affidavit dated 18<sup>th</sup> May, 2009 containing incorrect statements, show cause notice is issued initially to Dy. Commissioner of Police (Hqrs.), Delhi Police to show cause as to why action for contempt be not initiated against him, returnable on 3<sup>rd</sup> June, 2009. Let an affidavit be filed giving the names of the officers responsible for non-compliance of the orders dated 16<sup>th</sup> March, 1998 and 12<sup>th</sup> April, 2001 during the last 22 months for issuance of notice to them, before the next date of hearing.

25. This case cannot be closed on the mere apology and assurance of the Police that they shall now implement the Section 158(6) of the Motor Vehicles Act, 1988. This Court twice accepted the assurance given by the Police and closed the cases in 1998 and 2001. The implementation of Section 158(6) shall be monitored by this Court for some time. Let the

Police file a monthly report of the compliance of Section 158(6) with this Court. The first report relating to the month of June, 2009 be filed by 15<sup>th</sup> July, 2009 before the Registrar (Vigilance) who shall examine the same and place it on record with his comments.

26. Section 166(4) of the Motor Vehicles Act, 1988 has also not been implemented because of failure of Police to file Accident Information Reports. However, upon the filing of the Reports by the Police, Section 166(4) should be strictly implemented. The Tribunals are directed to maintain separate Institution Register for institution of the Accident Information Reports under Section 158(6) of the Motor Vehicles Act, 1988 and the cognizance of the Reports be taken on judicial side as in the case of Final Reports under Section 173 of the Code of Criminal Procedure, 1973 and the notice be issued to all concerned. If the complete information is not furnished in the Accident Information Report, the Tribunal shall fix a date for furnishing of balance information by the Police. The Tribunals shall also submit a monthly report of compliance of Section 166(4) of the Motor Vehicles Act, 1988 through

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

27. The learned Standing Counsel for Delhi Police submits that the Dy. Commissioner of Police (Hqrs.) regrets the lapse of non-implementation of Section 158(6) and non-compliance of the orders of this Court. It is further submitted that unconditional apology has been tendered in the affidavit dated 27<sup>th</sup> May, 2009 and Delhi Police is prepared to take all possible steps to streamline the system to ensure that Section 158(6) of the Motor Vehicles Act is strictly implemented in its true letter and spirit and the learned Amicus Curiae may give the suggestions in this regard.

28. The leaned Amicus Curiae has given some suggestions to streamline the system, a copy whereof has been furnished to learned Standing Counsel for Delhi Police who seeks some time to consider the same and to submit a report on the next date of hearing. It is submitted by the learned Amicus Curiae that the Police is not strictly enforcing Sections 180/181/182/183/184 /185/187/192/192A/194/195/196/197 of

the Motor Vehicles Act, 1988. If the vehicle was not insured at the time of the accident, the offender should be prosecuted under Section 196 of the Motor Vehicles Act, 1988 which provides for punishment of imprisonment which may extend to three months, or with fine which may extend to Rupees one thousand or with both. If there is no valid permit, the offender should be prosecuted under Section 192A of the Motor Vehicles Act, 1988. The Delhi Police shall consider these suggestions and make submissions on the next date of hearing.

29. The learned Standing Counsel for Delhi Police submits that a meeting of senior Police Officers with the learned Amicus Curiae Sh. V. P. Chaudhary, Senior Advocate and Sh. Anup Bhambhani as well as Officers of the Insurance Companies shall be fixed for 30<sup>th</sup> May, 2009 at 11.00 AM in the Conference Room of the Police Headquarters to examine the suggestions given by the learned Amicus Curiae. Mr. Kanwal Choudhary, nominated counsel for the New India Assurance Co. Ltd., is present in the Court and he undertakes to inform all the insurance companies about the aforesaid meeting. The senior officers from the Insurance

Companies as well as nominated counsels and the learned Amicus Curiae shall attend the meeting. The report of the Delhi Police in this regard shall be considered on the next date of hearing.

30. List for further hearing on 3<sup>rd</sup> June, 2009 at 2.30 PM. Dy. Commissioner of Police (Hqrs.) is directed to remain present in Court on the said date.

31. Copy of the order be given dasti to the Standing Counsel for Delhi Police, the learned Amicus Curiae and Mr. Kanwal Choudhary, nominated Counsel for the New India Assurance Co. Ltd. Copy of this order be also sent to all the Motor Accident Claims Tribunals.

J.R. MIDHA, J

MAY 28, 2009