

18 MACT 254/24
Durga Jaiswal Vs. Shriram General Ins

16/05/2024

Fresh claim petition under Section 166 of the MV Act received. It be checked and registered.

Present: Sh. Rajni Das, Ld. Counsel for petitioner.

On Court query, Ld. Counsel for petitioner submits that petitioner is residing in Delhi but she does not have any Delhi Address proof and hence only her permanent address is mentioned in the memo of parties. Petitioner is directed to file her Delhi address as well as amended memo of parties on the next date of hearing.

Petitioner has not appeared before the Court. On Perusal of record, it is revealed that the claimant is stated to be resident of A-36, Plot No.GH-02, Amarpali Leisure Valley Sector-1, Greater Noida, West Bisrakh, Gautam Budha Nagar, U.P. and the incident in question took place at around 08:15 pm near Nirala Estate Society Mod Police Station Bisrakh Gautambudh Nagar, within the jurisdiction of PS Bisrakh Gautambudh Nagar, U.P. on 19.11.2023.

In this regard, it is pertinent to note that the Central Vehicles Rules 1989 has been recently amended vide The Central Motor Vehicles (fifth amendment) Rules 2022. The amended rules came into effect from 01.04.2022 and were published by Ministry of Road Transport & Highways vide its notification dated 25.02.2022. Vide said amendment, new rule 150A has been inserted which provides the procedure to be followed for investigation of all accident cases arising out of use of motor

vehicles in accordance with Annexure VIII inserted in rules vide said amendment. The Annexure VIII provides detailed procedure for investigation of the road accident cases.

As per procedure of the investigation prescribed vide Annexure VIII, the Investigating Officer of the incident has to intimate the Motor Accident Claims Tribunal of area in question within 48 hours of the incident by submitting First Accident Report (FAR) in Form I. The Investigating Officer has to thereon file an Interim Accident Report (IAR) in Form V before Claims Tribunal of the area in question within 50 days of the accident. The Investigating Officer has to finally also file a Detailed Accident Report (DAR) in Form VII before the said Claims Tribunal within 90 days of the incident.

Furthermore, as per Clause 21 of Form VIII, the Claims Tribunal has to mandatory treat the DAR as claim petition filed for compensation under section 166 (4) of the MV Act, if the final report under Section 173 the Code of Criminal Procedure, 1973 (hereinafter referred to as Cr.P.C) brings a case of rash and negligent driving. However, in cases, where DAR does not bring a case of rashness or negligence, the Claims Tribunal has to register the case under Section 164 of the Motor Vehicles Act, 1988 (hereinafter referred to as M.V Act).

In view of the above said, it is clear that in the present case also, the IO must have filed First Accident Report (FAR), interim Accident Report (IAR) and Detailed Accident Report (DAR) before the concerned Claims Tribunal of the area where the incident in question has taken place. Therefore, in these circumstances, to rule out a case of pursuing same remedy by the petitioner/claimant before two Claims Tribunals and in order to rule out the multiplicity of the proceedings, it is imperative to ask the petitioner to furnish a copy of appropriate order seeking transfer of/

withdrawl claim/DAR from concerned Claims Tribunal where the incident in question has already taken place before proceeding further with this petition at hand. Ld. Counsel for claimant/petitioner is required to clarify whether any statement has been made before concerned claim Tribunal that petitioner does not wish to puruse with the DAR as claim petition and instead wishes to file claim petition in Delhi herself.

Hence, the claimant / petitioner is hereby directed to furnish application before claim Tribunal seeking transfer of withdrawlDAR before present claim Tribunal so that same be tagged with the present claim petition as per mandate in the judgment of Gohar Mohd. Vs. UPSRTC, decided on 15.12.2022. It is seen that petitioner had not added as respondent, the Nodal Officer of the Insurance Company at the place where accident took place and directed to file amended memo of parties.

To come up for filing of certified copy of statement of withdrawal of claim petition/filing of certified copy of criminal case record/amended memo of parties/appearance of petitioner on **07.10.2024**.

(Mayuri Singh)
P.O. MACT (East)/Delhi
16/05/2024