DAR No.
Krishan Pal Vs. Mohit Kumar & Ors.

20.04.2023

Detailed Accident Report (DAR) has been filed. It be checked and registered as a miscellaneous application in terms of Rule 21 of the Central Motor Vehicles Rules, 1989.

Present : Sh. Manoj Goel, Ld. Counsel for claimants.
R-1/driver in person.
Sh. Praveen, Dealing Assistant on behalf of R2/owner in person.
Ld. Proxy Counsel for R3/Insurance Company.
IO/ASI Yogeshwar Dayal in person.

Vakalatnama has been filed on behalf of claimants. Memo of appearance has been filed on behalf of Insurance Company. Same are taken on record.

Copy of DAR has been supplied to the parties present in the Court today. Written statement/reply/legal offer be filed on behalf of respondents within 30 days from today.

Insurance company is directed to submit Form XI along with copy of report of Surveyor/Investigator within 30 days of receipt of DAR in terms of judgment of ***Rajesh Tyagi & Ors Vs. Jaibir Singh & Ors,*** (FAO 842/2003) and Rule 26 of Central Motor Vehicle Rules, 1989.

IO submits that he has sent the income tax returns of the deceased for the assessment years 2021-22 and 2022-23 for verification to the Income Tax Office, but the same is pending. IO is directed to file the verified copy of income tax returns of the deceased on or before the next date of hearing.

In terms of provisions contained in Clause 31 of the Modified Claim Tribunal Agreed Procedure, as amended vide order dated 07.12.2018 of the Hon'ble Delhi High Court in the case of Rajesh Tyagi & Ors. Vs. Jaibir Singh & Ors., FAO No. 842/2003, the petitioners/ claimant is directed to open his/her MACT Claims SB Accounts in any of the nationalized banks near the place of his/her residence (s) and Manager of the concerned bank (s) is directed not to issue any cheque books and/or debit cards to the claimant and if the same have already been issued, to cancel the same and to make an endorsement on the passbooks of the claimant that no cheque book and/or debit card shall be issued without the permission of the court. However, the concerned bank (s) shall permit the claimant to withdraw money from his/her respective savings bank account by means of a withdrawal form or through biometric authentication.

A copy of this order be given dasti to the claimant and he/she is directed to produce his/her passbooks with necessary endorsements, as all well as his/her Aadhar Cards and PAN Cards before this Tribunal.

In ***Bajaj Allianz General Insurance Company Private Ltd. Vs. Union of India & Ors,*** Writ Petition No. 534/2020, IA No. 132263/2020 decided on 16.03.2021, the Hon'ble Supreme Court of India has passed the following directions and the same is reproduced for the ease of reference:

> ***"(v) The aspect of disparity in the Source (TDS) certificate in Tax Deduction Motor Accident at Claims, wherein from 10% to 20% dependent on whether the claimants have a Pan Card or not can be redressed by a direction that the Legal Services Authority or any Agency/Mediation Group should assist the claimant for obtaining a Pan Card, where the claimant does not have one, in order to avoid 20% deduction of tax at source. The format of the applications for compensation and motor accidents claims is being modified by***

inserting the relevant column just after the requirement to set out whether he is income tax assessee or not and whether the claimant has a Pan Card or not and or not and in case has a Pan Card to provide the Pan No. and in case the application is so pending, to provide the application/Reference No. The formats of the applications across the country be suitably amended to facilitate this process.”

Therefore, providing Pan Card details before the passing of award is mandatory and as directed by the Hon'ble Supreme Court of India, assistance of DLSA can always be obtained by the party, if it so desires.

Re-notify for filing of reply/written statement/legal offer on behalf of respondents as well as for framing of issues on **09.10.2023**.

(Shefali Barnala Tandon)
Judge / PO, MACT,
New Delhi/20.04.2023 (J)