

MACP No. 1109/23

Amit Kumar, Nanku Singh & Bablu Vs. Untrace

31.05.2024

Present: Sh. R.N. Chaudhary, Ld. Counsel for
applicants/petitioner(s).

Vide this order, I shall dispose off both the applications filed by petitioners namely Ravita Devi (Lrs of deceased Bablu) and petitioner/injured Nanku Singh seeking conversion of the present untrace report into petition u/s. 164 M.V. Act r/w Rule 150A of Central Motor Vehicles Rules, 1989, Annexure XIII, 22.

It is stated in the application that the applicant Nanku Singh alongwith Bablu, Amit and driver Roshan were going from Azadpur Sabzi Mandi to Narela Sabzi Mandi in Mahindra Bolero Maxi Truck bearing registration no. DL1LV-2819. Bablu was sitting on conductor seat and Nanku Singh and Amit were sitting in trailer where vegetables were kept. It is further stated that when the said vehicle reached G.T. Road, near Khampur Village, a truck came from the side where conductor was sitting and hit their vehicle while overtaking from the wrong side. It is further stated that due to the said reason, the vehicle of applicants turned turtle and applicant Nanku Singh and Bablu received grievous injuries. It is further stated that DAR in the present case was filed by the IO as hit and run case. It is further stated that in a separate incident, injured Bablu expired and his Lrs as well as injured Nanku Singh wants the said DAR to be treated as claim petition u/s. 164 M.V. Act. It is further stated that Rule 150A of Central Motor Vehicles Rules, 1989, Annexure XIII, 22 also provides for the same.

Heard. Record perused.

Section 164 reads as under:-

¹[Payment of compensation in case of death or grievous hurt, etc. -- (1) Notwithstanding anything contained in this Act or in any other law for the time being in force or instrument having the force of law, the owner of the motor vehicle or the authorised insurer shall be liable to pay in the case of death or grievous hurt due to any accident arising out of the use of motor vehicle, a compensation, of a sum of five lakh rupees in case of death or of two and a half lakh rupees in case of grievous hurt to the legal heirs or the victim, as the case may be.

(2) In any claim for compensation under sub-section (1), the claimant shall not be required to plead or establish that the death or grievous hurt in respect of which the claim has been made was due to any wrongful act or neglect or default of the owner of the vehicle or of the vehicle concerned or of any other person.

(3) Where, in respect of death or grievous hurt due to an accident arising out of the use of motor vehicle, compensation has been paid under any other law for the time being in force, such amount of compensation shall be reduced from the amount of compensation payable under this section.]

Rule 150A of Central Motor Vehicles Rules, 1989,
Annexure XIII, 22 reads as under:-

22. The Claims Tribunal shall register the case under section 166 of the Motor Vehicles Act, 1988, if the DAR and in particular, the Report under section 173 of the Code of Criminal Procedure, 1973(2 of 1974) has brought a case of rash and negligent driving. However, in cases where the DAR does not bring a charge of negligence or the claimant(s) choose to claim compensation on No-fault basis despite the charge of negligence, the Claims Tribunal shall register the claim as a case under section 164 of the Motor Vehicles Act, 1988.

It is worth mentioning that before the court of Ld. MM where the untrace report was filed, the same was accepted by the applicants without any objection.

In the present case since it is an untrace DAR, the offending vehicle is not traceable and therefore, there is no person against whom the compensation could be claimed u/s. 164 M.V. Act. Accordingly, the present DAR can not be converted into petition u/s. 164 M.V. Act. However, the applicants are at liberty to file appropriate petition u/s. 164 M.V. Act impleading necessary parties alongwith relevant documents.

The applications of the applicants are disposed off as aforesaid.

Put up for further proceedings on **13.08.2024**.

(Richa Manchanda)
Judge MACT-2 (North)
Rohini Courts, Delhi/31.05.2024