

TUSHAR Vs. SUNIL KUMAR AND ORS

12.12.2025

Present: Sh. B. K. Jha, Ld. Counsel for petitioner.

Ms. Sangeeta Solanki, Ld. Counsel for R1 alongwith R1 in person.

None for R2/DTC.

Sh. Sahil Kaushal, Ld. Counsel for R3/insurance.

Ld. Counsel for R3 has filed written reply to DAR without any statutory defense. It is submitted by R3 that the facts and documents are not verified by insurance company, therefore, no legal offer can be provided. Record shows that as per investigation of IO, there is no breach of insurance policy.

This accident happened on 26.07.2025. The insurance company must have been notified after filing of DAR and during investigation. It is mandatory for insurance company to appoint the designated officer to verify the claim so that at the time of filing the DAR, either the company comes with legal offer or statutory defense. Insurance company, if verified at the stage of investigation, can also settle the matter under Section 149 (2) MV Act, even before filing the DAR.

However, it appears that insurance company has made it a habit to wait till filing of DAR and then start their own investigation. This behaviour is completely against the spirit of section 149(2) and mandate of Hon'ble Supreme Court in *Gohar Mohd. Vs. UPSRTC, (2023) 4 SCC 381*. It is also in violation of Rule 5 of MACT Rules 2008.

Therefore, notice be issued to Manager concerned/Nodal Officer of insurance company to appear in person and explain why the conduct of insurance company shall not be considered a contempt of judgment of Hon'ble Supreme Court in *Gohar Mohd. Vs. UPSRTC, (2023) 4 SCC 381*.

Copy of this order be also sent to DCP concerned to ensure that all the IOs share all documents during investigation with insurance company so that they come up with reply/legal offer on the very first date when DAR is filed and in appropriate cases, procedure of fast DAR is also resorted to.

List on 19.01.2026.

(Vikram)
ADJ-1+ MACT, N/W, Rohini Courts,
12.12.2025