

13 MACT 312/20 VINOD Vs. MOHD. NASIR

28.03.2022

Present: Sh. Raman Mudgil, Counsel for petitioner with
petitioner.
Sh. Pramod Kumar, Counsel for insurance company.

Certified copy of site plan, mechanical inspection report, arrest memo and charge sheet filed on behalf of petitioner. Copy supplied.

This Court inquired from the petitioner why he has filed the present claim petition before this Court instead of Distt. Court of Kasganj, Uttar Pradesh. He replied that his counsel has filed the case and he has no knowledge regarding this.

The present claim petition was filed on 17.10.2020 in respect of an accident which took place in the jurisdiction of PS Sahawar, Distt. Kasganj, Uttar Pradesh. Petitioner is resident of Village- Badari Kalan, PS Sahawar, Distt. Kasganj, Uttar Pradesh. Respondent no.1/ driver & 2/ owner are resident of Distt. Bareilly, Uttar Pradesh.

Record shows that accident took place on 09.11.2019 and an FIR bearing no. 329/19 was registered at police station Sahawar on 10.11.2019 i.e. after a delay of 1 day. Petitioner was taken to Aligarh Hospital and after that removed to N. B. Hospital, Aligarh, Uttar Pradesh. But no MLC of petitioner was filed along with the petition by the petitioner.

Of late, it has been noticed that some advocates have started filing petitions of outstation matters and that too in bulk before different courts by stretching and expanding the jurisdiction of Motor Accident Claim Tribunals on the pretext that the office of the insurance

company is situated within the jurisdiction of the court. In a similar practice, in Uttar Pradesh a large number of Advocates were found involved in filing of fake claims pleas and in this regard cognizance was taken by the **Hon'ble High Court of Allahabad** against such malpractices and an SIT was constituted to investigate the fraud and in this regard the case of **Shafiq Ahmed v. ICICI Lombard General Insurance Co. Ltd. Special Leave Petition (Civil) No. 1110 of 2017, CC No. 23628 of 2016 arising out of impugned final Judgment and order dated 07.10.2015 in Crime No. 49 of 2015 passed by the Hon'ble Court of Jurisdiction of Allahabad, Lucknow Bench**, is relevant. In the said case, the Hon'ble Supreme Court has taken a note of the status report filed by the SIT in its order dated 16.12.2021 according to which out of total **1376 cases** of suspicious claims received by the SIT, after completing enquiry of 247 cases of suspicious claims till date, total 198 accused persons have been prima facie found guilty of cognizable offence and accordingly total 92 criminal cases have been registered in various districts. In fact **total 92 criminal cases** in various districts have been registered till date, of which, **28 advocates have been named as accused persons in 55 cases and charge sheets against 11 advocates in 25 cases have been forwarded to the concerned trial court till date.**

In the above case, the Hon'ble Supreme Court passed a detailed order dated **05.01.2017** reference of which was also made in the order dated **16.09.2021** wherein the Hon'ble Apex Court expressed its serious concerns of the alarming situation in which fake and fabricated claims may be filed under **Motor Vehicles Act** in all States/Union Territories pursuant to which directions were issued and the Registrars of all the High Courts were directed to ascertain from the Motor Accident Claim Tribunals such doubtful cases which prima facie may

require investigation and to prevent filing of such fabricated cases. The relevant portion of the same is quoted as under:-

“.....From the order passed by the High Court of Judicature at Allahabad, it was noticed that 64 fake claim cases were pending in various Districts in the State of U.P. It was also found and notice that 29 fake claim cases were decided in which compensation of Rs. 1.23 crore has been paid and claims for over Rs. 6 crores are still pending. This Court noted that the situation is really alarming and similar scenario cannot be ruled out elsewhere in other States/Union Territories also. Therefore, this Court directed to issue notice to all the States/Union Territories and Insurance Companies as to what steps can be taken to rule out the filing of the fake cases and what remedial measures can be taken. This Court also directed to issue notice to all the High Courts through Registrars to ascertain from MACTs such doubtful cases which prima facie may require investigation and to prevent filing of such fabricated cases....”

In the light of observations & directions of the Hon'ble Supreme Court and keeping in view the peculiar circumstances of the present case wherein an attempt has been made to invoke the jurisdiction of this Court by expanding the same on application of the case of **Malati Sardar v. National Insurance Company Ltd. & Ors.** In Civil Appeal No. 10 of 2016 arising out of SLP (Civil) No. 27243 of 2015 decided on 05.01.2016, despite the accident having taken place in jurisdiction of PS Sahawar, Distt. Kasganj, Uttar Pradesh and the parties particularly the petitioner is residing outside the jurisdiction of this Court, this Tribunal will have no option but to place this claim petition in doubtful/suspicious category in order to rule out any foul-play. **The principle of convenience of victims, if applied, prima facie does not appear to be compatible with the facts of the present case.** [Reference in this

regard is made to the orders of Hon'ble Apex Court dated **05.01.2017**, **16.09.2021** & **16.12.2021** in the case of **Shafiq Ahmed v. ICICI Lombard General Insurance Co. Ltd.**]. In terms of the observations of Hon'ble Supreme Court in the case of **Shafiq Ahmed v. ICICI Lombard General Insurance Co. Ltd.**, case be listed for arguments on the aspect as to why this claim petition be not put in the doubtful/suspicious category on **02.06.2022**.

Ahlmad of this Court is directed to send copy of this order to the Ld. Registrar General, Hon'ble High Court of Delhi, New Delhi for information in terms of the Directions of Hon'ble Supreme Court in the case of **Shafiq Ahmed v ICICI Lombard General Insurance Co. Ltd.**

(Dr. Hardeep Kaur)
PO-MACT (South-East)
Saket Court/ New Delhi
28.03.2022