

6 MACT 308/22 SANTOSH SAROHA Vs. SAYANTAN
CHAKROBORTY

24.08.2023

Present: Sh. Ashwani, Ld. Counsel for claimant.
Sh. Ujjwal Jain, Ld. Counsel for R-1 driver cum
owner.
Sh. Brijesh Bagga, Counsel for insurance company.

1. Scanned copy of reply filed by insurance company
along with v/k. Main signed copy be filed within two days.

2. Disability report not received.

Let reminder be issued to the concerned hospital to
send the disability report for next date.

3. Heard on issues.

4. Following issues are framed :-

**1. Whether the injured suffered
injury in a road traffic accident on
24.11.2021 due to rash and negligent
driving of vehicle no. DL 3SES 7297
(motorcycle) being driven by R1 (driver
cum owner), and insured with R2? OPP**

**2. Whether the claimant is entitled
to any compensation, if so, to what
extent and from whom ? OPP.**

**3. Whether there is any
contributory negligence on the part of
injured/ claimant, if so, effect thereof?
OPD**

4. Relief.

4. No other issue arises or is pressed.

5. Arguments heard on issue under consideration i.e.
whether evidence in present claim petition can be recorded through

appointment of Local commissioner.

6. It is objected by Ld. Counsel for the respondent side that recording of evidence is directed by the Hon'ble Supreme Court in DAR system in the judgment of Gohar Muhammad Vs. Uttar Pradesh State Road Transport Corporation, Civil Appeal no. 9322 of 2022. which is also stated in Rule 30 of **Amended Rule 150 A of the MV Act r/w Motor Vehicle (5th Amendment), Rules, 2022 r/w Annexure XIII relating to procedure for investigation of motor vehicle accidents.**

7. Heard.

8. It may noted that when with passage of time, in order to streamline and ensure timely disposal of such claims under MACT, Hon'ble High Court of Delhi and Hon'ble Supreme Court and now even the legislature has led down procedure in detail, there is no reason to differentiate the procedure in cases based on DAR filed by police or a petition u/s 166 (1) MV Act independently by the claimants themselves. All such procedure can be gainfully employed in petition u/s 166 (1) MV Act filed independently by claimants.

9. It is more so that when as per section 166 (4) MV Act , such DAR is treated as petition u/s 166(1) MV Act. Thus legally position / procedure of both such petition u/s 166(1) and DAR u/s 159 MV Act has to be same regarding the aspect under consideration.

10. As such, there is no reason why all such DAR procedure directed by Hon'ble SC/HC, relating to duties of the insurance company should not apply in case of a claim petition filed u/s 166 (1) MV Act, because ultimately all such procedure are to

ensure consistency and expeditious disposal of claims.

11. As such, there is no reason to differentiate recording of evidence between a claim petition u/s 166 (1) MV Act and DAR u/s 159 MV Act r/w 166 (4) MV Act as ultimately the purpose and procedure as per MV Act regarding inquiry in both is the same.

12. As such vide separate order pronounced in open court evidence is directed to be recorded through LC.

13. ***It is further clarified that as disability report is still pending, the evidence of claimant would start before the LC only after receiving such LC report.***

14. Put up for final arguments on **16.05.2024**.

(Naveen Kumar Kashyap)
PO-MACT (South-East)
Saket Court/ New Delhi
24.08.2023 ®