

26 Misc DJ 926/23 MANIRAM AHIRWAR (DAR) Vs. PAMIT SHARMA (135/17 DFC)

19.07.2023

Present: Sh. Raman Mudgil, Ld. Counsel for injured Maniram Ahirwar.
R-1/ driver cum owner Pamit Sharma in person with
Ld. Counsel Sh. Dhruv Gautam.
Ld. Proxy Counsel for Tata AIG insurance company.

1. **DAR already filed. Same be checked and registered now.**

2. A status report / reply filed by SI Karan Pal presently posted at PS Mehrauli. He stated that present matter is dealt by following 3 IOs including himself:

(i) ASI Jai Singh, PS Defence Colony, 17.07.2017 to 03.08.2017.

(ii) SI Kamal Kishor (DIU South), 09.08.2017 to 14.11.2020.

(iii) SI Karan Pal (DIU/ South), 10.02.2021 till filing of DAR

3. Heard in detail.

4. Regarding monitoring of filing of DAR timely and connected issues, it is noted that as far as our Delhi is concerned, DAR system is already in place for many years now.

5. In fact, such system later on adopted at all India level by direction of Hon'ble Supreme Court including in the case of **Bajaj Alliance General Insurance Company Private Limited Vs. Union of India & Ors., Writ Petition(s)(Civil) No(s). 534/2020.**

6. Not only this, with the passage of time, law has further developed, crystallized and even codified now. In this regard, Motor Vehicle 5th Amendments Rules have already come into place about 1 year

ago w.e.f. 01.04.2022 incorporating such DAR system at pan India level.

Various duties, inter alia of IO/ police official is now codified in such **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. Although there is improvement in compliance of such **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** by the concerned police stations, falling under the jurisdiction of this Tribunal. But still situation is not satisfactory. There is repeated non compliance in many matters even now, particularly relating to following aspects which are now part of DAR system:

“2.Intimation of accident to the victim, Claims Tribunal and Insurance Company within forty-eight (48) hours.

3. Rights of victims of Road Accident and Flow Chart of the Scheme mentioned in Form II to be furnished by the Investigating Officer to the Victim(s) within 10 days.

6. Interim Accident Report (IAR) to be submitted by the Investigating Officer to the Claims Tribunal within 50 days.

9. Victim’s Form to be submitted by the victim(s) in respect of minor children.

12. DAR to be submitted by the Investigating Officer before the Claims Tribunal within 90 days.

14. Investigating Officer may seek necessary directions from the Claims Tribunal, if any party do not cooperate.

8. A combined effect of such non compliance has resulted into practically non implementation of DAR system r/w Sec. 149 MV Act Procedure regarding settlement by insurance companies, as no information of FAR within 48 hours, as per such amended DAR rules is supplied to the “**insurance companies**” by the IO which is violation of

such rules.

9. The situation worsen in cases which are majority in number so far, that even copy of FAR/ Form -I not supplied within 48 hours, as mandated by law, even to “**the victim**”.

10. Thus, insurance company directly through IO (or indirectly through victim) is unable to get information timely regarding occurrence of alleged accident. Consequently the whole process of processing claim timely by insurance company does not start at all in almost all the cases coming before this Tribunal. Thus, as an end result, provision of 149 MV Act regarding settlement out of court, between the injured and insurance company, is made redundant mainly due to inaction / non compliance by concerned police officials/ IO.

11. Further, in any case, even photographs of place of accident, CCTV footage not timely secured.

12. Further even bill, if any of medical expenses not collected, inquiry about income of victim not filed. Thus, even when DAR without such document /information filed, insurance company not able to readily given any legal offer.

13. Such DAR procedure / amended rules timely compliance is now even highlighted by Hon'ble Supreme Court in the landmark case of **Gohar Mohammed Versus Uttar Pradesh State Road Transport Corporation, 2022 SCC Online SC 1769.**

14. Further, it may be noted in **Gohar Mohammed (supra)** inter alia it was stated:

“64.....ii) On receiving the intimation regarding road accident by use of a motor vehicle at public place, the SHO concerned shall take steps as per [Section 159](#) of the M.V. Amendment Act.

iii) After registering the FIR, Investigating Officer shall take recourse as specified in the M.V. Amendment Rules, 2022 and submit the FAR within 48 hours to the Claims Tribunal. The IAR and DAR shall be filed

before the Claims Tribunal within the time limit subject to compliance of the provisions of the Rules.

v) The flow chart and all other documents, as specified in the Rules, shall either be in vernacular language or in English language, as the case may be and shall be supplied as per Rules. The Investigating Officer shall inform the victim(s)/legal representative(s), driver(s), owner(s), insurance companies and other stakeholders with respect to the action taken following the M.V. Amendment Rules and shall take steps to produce the witnesses on the date, so fixed by the Tribunal.....”

15. It may further be noted that a direction is already issued by Hon'ble Supreme Court in such **Gohar Mohammad (supra)** regarding creation of **special Unit** and order in this regard by Hon'ble Supreme Court is as under:

*“...64 vii) In view of the M.V. Amendment Act and Rules, as discussed hereinabove, the role of the Investigating Officer is very important. He is required to comply with the provisions of the Rules within the time limit, as prescribed therein. Therefore, for effective implementation of the M.V. Amendment Act and the Rules framed thereunder, the specified trained police personnel are required to be deputed to deal with the motor accident claim cases. Therefore, we direct that the Chief Secretary/Director General of Police in each and every State/Union Territory shall develop a **specialized unit in every police station or at town level and post the trained police personnel to ensure the compliance of the provisions of the M.V. Amendment Act and the Rules, within a period of three months from the date of this order....”***

16. It may further be noted that in any case, it is the duty of concerned police officials to comply such mandatory provisions of law within time prescribed and regarding violation thereof, Rule 20 of such **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 mandates as follows:

“Rule 20. Duties of Police shall be construed to be part of State Police Act: The duties of police enumerated above shall be construed as if they are included in the respective State Police Act and **any breach thereof shall entail consequences envisaged in that law.**”

17. As such, a copy of this order be given to the DCP (South) for departmental action against all IOs as per Rule 20 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 as present DAR is filed in blatant violation of directions by Hon'ble High Court of Delhi and Hon'ble Supreme Court only after about 6 years from the date of accident which practically rendered the objective of DAR system ineffective.**

Put up for status report from DCP on next date.

18. As far as present case on merit is concerned Copy of DAR supplied to parties.

19. Now to come up for reply / legal offer in prescribed Form-III on **17.11.2023**. The insurance company shall also disclose their bank account details in the Legal Offer/Reply.

20. **Directions for claimant (s) to open bank accounts:**

Claimant (s) are directed to open a saving bank account in a nationalized bank near their place of residence. The concerned bank is directed to not issue any cheque book and debit card to the claimant (s) and if the same have already been issued, the bank is directed to cancel the same and make an endorsement to that effect that on the passbook of the claimant. Claimant (s) are directed to place on record two photographs and their attested specimen signatures from the bank, a copy of the bank pass book with such endorsement from bank, with their Aadhar Card (s) and PAN Card (s) on the next date of hearing. The claimant (s) shall also furnish complete postal address of the bank with their IFS Code and MICR number before the court on the next date of hearing. A copy of this order be given dasti to the claimant (s) for being

shown to the bank for compliance.

21. Further, in view of Rule 32(2) of amended rule of 150A of MV (5th amendment) Rules effective from 01.04.2022 r/w Annexure XIII, **Procedure For Investigation of Motor Vehicle Accidents**, claimants are directed to place on record the following documents, if not already filed:

(a) Aadhaar Card and PAN Card;

(b) Details of the Aadhaar Linked Bank Account(s) of the Claimant(s) near the place of their residence along with the proper endorsement; and

(c) Two sets of photographs and specimen signatures of the claimant(s).

(Naveen Kumar Kashyap)

PO-MACT (South-East)

Saket Court/ New Delhi

19.07.2023 ®