

MISC DJ no.1231/2023
Mansharam Vs. Braj Mohan & Anr.
MISC 1232/23
Anshul Vs. Brajmohan & Anr.
06.07.2023

**Fresh Claim petition under section 166 (1) of MV Act received.
It be checked and registered.**

Present: Sh. Shekhar Aggarwal, Ld. Counsel for claimant.

1. In the present case, accident took place, outside the territorial jurisdiction of this Tribunal.
2. As per amended rule 150A of MV(5th amendment) Rules effective from 01.04.2022 r/w Annexure XIII, **Procedure For Investigation of Motor Vehicle Accidents**, inter alia in Rule 22, it is stated as follows:

*“22. Cases of rash and negligent driving:
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”.***

3. In view of the same, put up for consideration and appropriate orders for whether in the accident in question which has taken place outside the territorial jurisdiction of this court after 01.04.2022, i.e. date of coming into force such MV 5th amendment Rules, by virtue of which DAR system is made applicable throughout India and Hon'ble Supreme Court in **Bajaj Allianz**

General Insurance Co. Pvt. Ltd. v. Union of India & Ors (order dated 16.03.2021 in W.P. (civil) 534/2020) for applicability of DAR system throughout India, whether any chargesheet is filed or otherwise untrace or cancellation report filed regarding the accident in question. Further, whether any charge of negligence is brought in such chargesheet, if any.

4. It may be 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 laid 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.

5. 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.

7. As such, there is no reason why all such DAR procedure directed by Hon'ble SC/HC, 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.

8. It may further be noted in this regard that in 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, Hon'ble Supreme Court, noted that 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.

9. 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....”***

10. In the light of observations & directions of the Hon'ble Supreme Court, it is all the more necessary that either the present case is registered under section 164 A MV Act or notice be issued in any case to the concerned SHO /IO to file a status report whether final report/ charge sheet / cancellation is filed in the present case,

instead of proceeding further without waiting for filing of final report u/s 173 Cr.PC.

11. As, such, issue notice to IO/SHO concerned through SSP concerned, through DCP South East to file status report regarding filing of final report in the present case on taking steps by the petitioner within one week.

12. As such, IO/SHO concerned to further file a status report whether **DAR** is filed, if not, reason thereof.

13. Therefore, issue notice to the IO/SHO concerned to file a status report on the NDOH accordingly.

14. Put up for further appropriate orders and proceedings on **03.11.2023**.

15. A copy of this order be given to petitioner at request for service on the IO/SHO concerned, dasti.

(Naveen Kumar Kashyap)
PO-MACT (South-East)
Saket Court/ New Delhi
06.07.2023 ®