

MACT: 757/21
Urmila Devi v. Mayank

03.02.2023

Present: Ms. Kanta Chaudhary, Ld. Counsel for claimant.
Sh. Rajesh Khari, Ld. Counsel for R-1 & R-2.
Sh. M.Z. Iqbal, Ld. Counsel for R-3/insurance company.

1. An application for assessing physical disability of injured by the medical board due to accidental injuries moved on behalf of claimant.
2. The requisite proforma under form "J" of MACT Rules has also been furnished.
3. 'Medical Superintendent, Pandit Madan Mohan Malviya Hospital, Malviya Nagar, New Delhi' is directed to examine the injured qua his disability and to send Disability Certificate as per guidelines issued by the Ministry of Social Justice and Empowerment, Government of India vide Gazette Notification S. No. 61 dated 05.01.2018.
4. Copy of this Order be given Dasti to the applicant/petitioner alongwith Form "J". A copy of Form "J" is retained on record.
5. The Disability Certificate be sent to this Tribunal within 15 days from the date of receipt of this Order in terms of clause 25 of Modified Claims Tribunal Agreed Procedure (as Approved by Hon'ble High Court of Delhi).
6. The next date of hearing which is 25.05.2023 be mentioned on the Disability Certificate.
7. **In case it is found that the claimant is suffering from any disability, in that event three attested copies of the Disability Certificate be also sent along with the Disability Certificate.**

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8. List for awaiting report of disability on 25.05.2023.
9. It is admitted by counsel for claimant that as far as third party insurance is concerned, same was not by National Insurance Company/present R-3. Instead it was by TATA AIG.
10. Heard.
11. As such, National Insurance company/present R-3 stands deleted.
12. Further, counsel for claimant seeks some time for moving appropriate application for replacing such TATA AIG as new R-3 alongwith amended memo of parties.
13. In this regard it is noted that Hon'ble Supreme Court in ***“Gohar Mohammad v Uttar Pradesh State Road Transport Corporation, (2022 SCC online SC 1769) inter alia*** has directed as under:

52. Learned Amicus Curiae contends that in a situation where the claimant(s) opts to file a claim petition under Section 166 other than a place where the accident has taken place taking recourse of Section 166(2) of the M.V. Amendment Act, the proceedings initiated under Section 149 is required to be closed and tagged with those proceedings. It is also urged that possibility of filing application by opting the Claims Tribunals at different places within territorial jurisdiction of different High Court by other claimant(s) cannot be ruled out. ***It is further contended that in case the claim petitions have been filed at different places by different claimant(s) within the territorial jurisdiction of different High Courts, appropriate directions to transfer those cases at one place in exercise of the power under Section 142 of the Constitution of India needs to be***

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issued, thereby the delay may be curbed in proceeding the claim case.

53. In our view, the argument as advanced is having force, therefore, we direct that on initiation of the proceedings under Section 149 registering a Miscellaneous Application by the Claims Tribunal, in whose jurisdiction the accident occurred would continue until the proceedings under Section 166 has been filed by the claimant(s) separately. In the event of filing a separate application and on receiving the information in this regard either from the claimant(s), or investigating officer or insurance company, the proceedings under Section 149 shall be deemed as closed and be tagged with the proceedings of Sections 164/166 filed by the claimant(s). In case the claimant(s)/legal representative(s) have filed different applications under Section 166 before different **Claim Tribunals at different places outside the territorial jurisdiction of one High Court, in the said contingency the Claims Tribunal, where the first claim petition is filed shall have jurisdiction to adjudicate and decide the same and other claim petition(s) filed by the claimant(s)/legal representative(s) in the territorial limits of other High Courts shall stand transferred to the Claims Tribunal where the first claim petition was filed and the proceedings under Section 149 shall be tagged with the said file.** In order to curb the delay on account of pendency of claim petition(s) before different Claim Tribunals within the territorial jurisdiction of different High Courts, such direction is necessary. Therefore, we deem it appropriate to exercise our power under Article 142 of the Constitution of India. It is directed that Registrar General of the High Courts shall issue appropriate orders for transferring the subsequent proceedings and records to the Claims Tribunal where the first claim petition filed by the

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claimant(s) is pending. It is made clear here that the parties are not required to file any transfer petition before this Court seeking order of transfer in such individual cases pending in the jurisdiction of different High Courts.

14. It is noted that such direction by Hon'ble Supreme Court are attracted in case different claim petitions are filed before Ld. Claim Tribunals situated under more than one Hon'ble High Court i.e. in different state.

15. Thus, in the considered view of this Tribunal that in case, as accident has occurred and DAR is filed in Faridabad, Haryana which is under the jurisdiction of Hon'ble Punjab & Haryana High Court and whereas, the present petition is preferred before this Tribunal which is under jurisdiction of Hon'ble High Court of Delhi, as such, in view of such direction by Hon'ble Supreme Court, such DAR filed before learned MACT, Faridabad, Haryana has to be get transferred through learned Registrar General of Punjab and Haryana High Court to this Tribunal without there being any need for the claimant to seek order of transfer of such DAR pending in the jurisdiction of such Hon'ble different High Court.

16. Learned counsel for claimant states that a copy of this order be given dasti to them for placing before learned MACT Faridabad for doing the needful.

17. **Put up for further appropriate orders and proceedings on 25.05.2023.**

18. **copy of this order be given dasti to all parties.**

19. **Further, a copy of this order be sent to learned MACT,**

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Faridabad for transferring the original DAR/Form-54 record to this Tribunal through proper channel/learned Registrar General.

(Naveen Kumar Kashyap)
PO-MACT (South-East)
Saket Court/ New Delhi
03.02.2023