

MACT: 757/21
Urmila Devi v. Mayank

25.05.2023

Present: Ms. Kanta Chaudhary, Ld counsel for claimant.
None for respondents.

Reply filed by all the three respondents.

Disability report not received.

Let reminder be issued to the concerned hospital to sent the disability report for NDOH.

It is further pointed out by counsel for claimant that in this case in view of present private claim petition u/s 166(1) MV Act, DAR matter is disposed of by concerned MACT court where accident took place vide order dated 27.07.2022. Certified copy of DAR already placed on record and same be merged with present case.

Heard. Allowed.

On the basis of pleadings, following issues are framed in the present case also.

1. Whether the claimant suffered injuries in a road traffic accident on 09.07.2021 due to rash and negligent driving of vehicle bearing no. HR-51CA-5575(motorcycle) driven by R1 and owned by R-2 and insured with R-3? OPP.

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

3. Relief

No other issue arise or pressed for.

1. Arguments heard on issue under consideration i.e. whether evidence in present claim petition can be recorded through appointment of Local commissioner.

2. 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.**

3. Heard.

4. 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.

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.

6. 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.

7. 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.

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

9. **Be put up for final arguments on 25.01.2024.**

(Naveen Kumar Kashyap)
PO-MACT (South-East)
Saket Court/ New Delhi
25.05.2023