

11 MACT 17/22 MD. SHZAD (DAR) Vs. BHORA (92/21, BP)

03.08.2023

One of the regular stenographer is on leave today.

Present: Ld. Counsel for claimant.
None for R-1 & 2.
Sh. M. Z. Iqbal, Counsel for Insurance company

1. An application for assessing physical disability of injured by the medical board due to accidental injuries moved on behalf of claimant.

The requisite proforma under form “J” of MACT Rules has also been furnished.

'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.

Copy of this Order be given Dasti to the applicant/petitioner alongwith Form “J”. A copy of Form “J” is retained on record.

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).

The next date of hearing be mentioned on the Disability Certificate.

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.

2. List for awaiting report of disability.

3. Legal offer filed. Copy supplied but same is not acceptable

to claimant side.

4. After the **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**, relating to nature of issues to be framed, in the case of Gohar Mohammad Vs. Uttar Pradesh Road Transport Corporation 2022 SCC OnLine SC 1769, inter alia it is held:

“..54. Learned Amicus Curiae has further pointed out that in some High Courts, distribution memos attaching the Claims Tribunal to the police stations have not been issued, however taking recourse under Section 149 of the M.V. Amendment Act is not possible within the prescribed period of time, therefore directions may be issued to prepare the distribution memos by the High Courts with respect to police stations and Claims Tribunals in order to implement the recourse of Section 149 of the M.V. Amendment Act and the Rules may be issued and the same be notified in public domain for the convenience of public.

55. In this regard, it would suffice to observe that in the High Courts, where the distribution of police stations and specified Claims Tribunals is not already in force, steps shall be taken by the Registrar Generals to prepare distribution memos and notify the same time to time, thereby the proceedings under Section 149 may continue effectively in such Claim Tribunals without any delay. The Tribunals, as notified, shall take recourse as discussed and on appointment of the Designated Officer as per Rule 23 of the Rules, the settlement of claim may be processed by the insurance company. The said proceedings would continue until it is tagged with the claim petition, if any, filed under Section 166 of the M.V. Amendment Act. It is also made clear that if the claimant(s) have not taken any recourse under Section 166, then the miscellaneous application be treated as claim petition under Section 166(4) of the M.V. Amendment Act and the Claims Tribunal is duty bound to decide such claim by following the procedure in accordance with law..”

5. In the present case, a legal offer is made but such quantum /

compensation amount made by the insurance company is not accepted by the claimant side. They state that it is not a fair compensation as per their view.

6. As such, in view of such direction by Hon'ble Supreme Court only issue relating to quantum is to be decided and following issues are framed:

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

2. Whether there is any contributory negligence on the part of injured, if so, effect thereof.

2. Relief.

7. No other issue arises or is pressed.

8. At this stage, it is stated by claimant that claimant side do not want to lead any evidence and prays that disability certificate be read in evidence as and when received.

9. As such put up for RE, if any and final arguments.

10. Advance copy of affidavit if any be supplied to claimant side at least two weeks before the next date.

11. Put up for **18.04.2024**.

(Naveen Kumar Kashyap)
PO-MACT (South-East)
Saket Court/ New Delhi
03.08.2023 ®