

MACT 293/23

AJAY CHAUDHARY AND ORS VS. SAMSHER AND ORS

08.01.2024

Present:- None for petitioner.

Sh. Gajender Kumar, Advocate for Insurance  
Company/R-4.

Sh.M.K.Srivastva, Advocate for respondent no. 1, 2  
& 3.

WS of all the respondents have been filed. Copy of  
the same be supplied during the course of the day.

An application under section 151 CPC made on  
behalf of petitioners for seeking amendments of cause title  
alongwith supporting documents.

Pleading of the parties are complete. As per the  
pleadings of parties following issues are framed:

1. Whether petitioner suffered injuries during the  
accident occurred on 09.04.2023 in between 06:55 am to 07:10  
am pm at Delhi Jaipur National Highway near Behror Police  
station within the jurisdiction of PS Behror, Bhiwadi, Alwar due  
to rash and negligent driving of the vehicle bearing No.HR 55AJ  
0771 being driven by respondent No. 1 / driver? OPP

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

3. Relief.

No other issues arises or pressed.

At this stage, ld. Counsel for parties state that  
evidence in this case be recorded through Ld. Court  
commissioner.

By way of inclusion of Rule 150A in Motor Vehicles Rules, 1989, concept of recording of evidence by way of Court Commissioner has been introduced.

In order to achieve timely and expedient decision on this case, with the consent of the parties, a decision is taken for recording of evidence by way of Court Commissioner.

Both sides shall file list of witnesses preferably within Three Days but not later than one week before the Tribunal while sharing an advanced copy thereof with the opposite parties. Evidence shall continue on day-to-day basis, till conclusion. Any alteration in schedule for recording of evidence, if needed, shall be decided by the Court Commissioner as per convenience of all concerned, to the extent possible.

In case, for any reason the parties are unable to adhere to the time schedule extension can be sought from the Tribunal but not beyond additional Two weeks. The Examination-in-Chief shall be filed by way of affidavit. Its Copy shall be supplied to opposite party. In case, the opposite side is desirous of production of any document by the witness or any other entity for the purpose of cross-examination, an application requesting the same shall be made well in advance before the Tribunal. It is clarified that, unless Court Commissioner is of the view that the interim application made by either of the parties is such that evidence cannot be recorded before its disposal, the recording of evidence shall continue unabatedly.

Petitioner's evidence in this case shall be recorded before Court Commissioner at the convenience of the parties.

Cost of evidence shall be borne by the insurance company i.e Rs.3,500/- per witness. Ld. Counsel for the

insurance company shall make the payment for evidence recorded on each date and get it reimbursed later from the insurance company.

**Ms. Nisha Phalwaria Advocate** (Enrollment no. D/9027/2022), Chamber no. F-70, Karkardooma Courts, Delhi, mobile phone no.9810963656, is hereby appointed as Court Commissioner and she shall file the report on or before the next date of hearing. Copy of order be given dasti to the parties. A copy of order be also given to the Ld. Court Commissioner.

Now to come up for respondent's evidence  
19.03.2024.

(Dr.Tarun Sahrawat)  
PO-MACT-01/SHD/KKD  
08.01.2024

At this stage, Sh. Bijoy Kumar Pradhan, Ld. Counsel for petitioner appeared and filed criminal case record alongwith list of documents. Let the same be taken on record. Copy of the same be supplied to the opposite party.

Put up on the date fixed i.e. 19.03.2024 for respondent's evidence.

(Dr.Tarun Sahrawat)  
PO-MACT-01/SHD/KKD  
08.01.2024