

MACT 488/23
DAR-AARTI Vs. RAMBEER AND ANR
31.01.2024

Present:- Sh. Anurag Gupta, Advocate for petitioner.

Sh.Rajesh Goel, Advocate for Insurance Company.

Respondent no. 1 in person.

None for respondent no.2.

WS of respondent no.1 & 3 are already on record.

Respondent no. 1 states that in the order sheet of last date i.e. 04.12.2023, appearance of his counsel namely Sh. Ankush Chaudhary was wrongly marked for respondent no. 2 and therefore, the typographical mistake occurred so inadvertently may be corrected.

In view of the request made, Let the appearance of Sh. Ankush Chaudhary, Advocate recorded in the order sheet dated 04.12.2023 be read as counsel for respondent no.1. Ordered accordingly.

Perusal of the record also shows that none has appeared on behalf of respondent no. 2 nor filed WS till date despite expiry of stipulated period. In the circumstance, the right of respondent no. 2 to file WS is closed.

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 31.07.2023 at about 10:15 pm at Mandoli Flyover Towards Gagan Cinema near Mandoli Bus stand within the jurisdiction of PS Nand Nagri due to rash and negligent driving of the vehicle bearing No. DL 3CAH 1665 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 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.Rahul Garg Advocate (Enrollment no. D/9413/2019), Chamber no. E-514, E-Block, Karkardooma Courts, Delhi, mobile phone no.9643538925, 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.

Put up for RE/cross on 10.04.2024.

(Dr.Tarun Sahrawat)
PO-MACT-01/SHD/KKD
31.01.2024