

MACT 291/19
BHAGWAN SINGH MEENA VS. RAJU
13.12.2023

Present:- Sh. Hariom Giri, Advocate for petitioner (Mobile No.8700349098).

Sh.Rajneesh Kumar, Advocate for Insurance Company. (Mobile No.9958390075)

None for respondent no 1 & 2.

Today matter is listed for report on service of respondent no.1 & 2. However, Ld. Counsel for petitioner drew my attention towards order dated 10.09.2021, wherein it is mentioned that Sh. Anil Gupta, ld. Counsel for respondent no.1 & 2 had appeared before this Tribunal. Perusal of the record shows that respondent nos.1 & 2 have not filed their WS/reply till date despite elapse of couple of years. It is apparent that respondent no.1 & 2 are not inclined to proceed further with the matter. Accordingly, respondent no.1 & 2 are proceeded against ex-parte.

WS of respondent no.3/Insurance company is already on record.

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

1. Whether Respondent No. 1 was driving the offending vehicle No. RJ 11GB 4416 on 10.05.2019 at about 01;30 am at Yamuna Expressway near Jever Teshil within the jurisdiction of PS Rabupura in a rash and negligent manner and caused the death of deceased Sh. Bhagwan Singh Meena ? OPP

2. Whether petitioners are 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 states that evidence be recorded through Local 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 and respondent'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.2,500/- 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. 79957-46881 is hereby appointed as Court Commissioner and she shall file the report on or before NDOH. Copy of order be given dasti to Ld. Court Commissioner.

The claim cases bearing MACT No. 291/19 and MACT No. 292/19 arise out of same accident. Therefore, for the purpose of inquiry, both the claim cases are consolidated. Claim case bearing MACT No. 292/19 would be considered as main case and common evidence would be recorded and same shall be kept in the file of main case.

Put up for final arguments on 03.04.2024.

(Dr.Tarun Sahrawat)
PO-MACT-01/SHD/KKD
13.12.2023