

54 Misc DJ 274/22 SOURAV PALOI(DAR) Vs. SARITA SINGH
(357/22, KKJ)

22.07.2023

Present: Ld. Counsel for claimant.
Ld. Counsel for insurance company.

1. In view of reasoned order passed separately, present DAR is proceeded further on merit for **02.12.2023**.

2. But regarding monitoring of filing of DAR timely and connected issues, it is noted that as far as our Delhi is concerned, DAR system is already in place for many years now including the aspect of timely filing of DAR by the concerned police official.

3. In fact, such system later on adopted at all India level by direction of Hon'ble Supreme Court including in the case of **Bajaj Alliance General Insurance Company Private Limited Vs. Union of India & Ors., Writ Petition(s)(Civil) No(s). 534/2020**.

4. Not only this, with the passage of time, law has further developed, crystallized and even codified now. In this regard, Motor Vehicle 5th Amendments Rules have already come into place about 1 year ago w.e.f. 01.04.2022 incorporating such DAR system at pan India level.

Various duties, inter alia of IO/ police official is now codified in such **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**.

5. Although there is improvement in compliance of such **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 by the concerned police stations, falling under the jurisdiction of this Tribunal, but still situation is not satisfactory. There is repeated non compliance in many matters even now, particularly relating to following aspects which are now part of DAR system:

“2.Intimation of accident to the victim, Claims Tribunal and Insurance Company within forty-eight (48) hours.

3. Rights of victims of Road Accident and Flow Chart of the Scheme mentioned in Form II to be furnished by the Investigating Officer to the Victim(s) within 10 days.

6. Interim Accident Report (IAR) to be submitted by the Investigating Officer to the Claims Tribunal within 50 days.

9. Victim’s Form to be submitted by the victim(s) in respect of minor children.

12. DAR to be submitted by the Investigating Officer before the Claims Tribunal within 90 days.

14. Investigating Officer may seek necessary directions from the Claims Tribunal, if any party do not cooperate.

6. A combined effect of such non compliance has resulted into practically non implementation of DAR system r/w Sec. 149 MV Act Procedure regarding settlement by insurance companies, as no information of FAR within 48 hours, as per such amended DAR rules is supplied to the “**insurance companies**” by the IO which is violation of such rules.

7. The situation worsen in cases which are majority in

number so far, that even copy of FAR/ Form -I not supplied within 48 hours, as mandated by law, even to “**the victim**”.

8. Thus, insurance company directly through IO (or indirectly through victim) is unable to get information timely regarding occurrence of alleged accident. Consequently the whole process of processing claim timely by insurance company does not start at all in almost all the cases coming before this Tribunal. Thus, as an end result, provision of 149 MV Act regarding settlement out of court, between the injured and insurance company, is made redundant mainly due to inaction / non compliance by concerned police officials/ IO.

9. ***More impotently, which is issue under consideration regarding which detailed separate order is passed today on the aspect of limitation u/s 166 (3) MV Act, DAR is not even filed within 6 months of occurrence of accident.***

10. Such DAR procedure / amended rules timely compliance is now even highlighted by Hon'ble Supreme Court in the landmark case of **Gohar Mohammed Versus Uttar Pradesh State Road Transport Corporation, 2022 SCC OnLine SC 1769.**

11. It may further be noted that a direction is already issued by Hon'ble Supreme Court in such **Gohar Mohammad (supra)** regarding creation of **special Unit** and order in this regard by Hon'ble Supreme Court is as under:

“...64 vii) In view of the [M.V. Amendment Act](#) and Rules, as discussed hereinabove, the role of the Investigating Officer is very important. He is required to comply with the provisions of the Rules within the time limit, as prescribed therein.

Therefore, for effective implementation of the M.V. Amendment Act and the Rules framed thereunder, the specified trained police personnel are required to be deputed to deal with the motor accident claim cases. Therefore, we direct that the Chief Secretary/Director General of Police in each and every State/Union Territory shall develop a specialized unit in every police station or at town level and post the trained police personnel to ensure the compliance of the provisions of the M.V. Amendment Act and the Rules, within a period of three months from the date of this order....”

12. The senior police officials from South East and South Distt. present physically in court today, assures the Tribunal that such provision will be complied in latter and spirit. But it may be noted, the orders are passed time and again since June 2022 by this Tribunal which are matter of record, and already must be in the knowledge of senior police officials also apart from SHO / IO concerned, relating to all the 20 police stations of South East and South Distt., it is noted that there is not satisfactory improvement. Still, inter alia, DAR are not filed even within six months, rendering the whole procedure fruitless and meaningless for the victims.

13. It may further be noted that in any case, it is the duty of concerned police officials to comply such mandatory provisions of law within time prescribed and regarding violation thereof, Rule 20 of such **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** mandates as follows:

“Rule 20. Duties of Police shall be construed to be part of State Police Act: The duties of police enumerated above shall be construed as if they are included in the respective State Police Act and **any breach thereof shall entail consequences envisaged in that law.**”

14.1. As such, a copy of this order be given to the DCP (South East) as well as DCP South concerned for taking department action against the concerned IO (all the IOs in case more than one IO dealt with a particular case) for dereliction of duty and non compliance of such directions by the MV Act, directions by Hon'ble Supreme Court, in view of Rule 20 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.**

14.2. Further, in view of repeated non compliance by IOs, a Symbolic cost of Rs. 100/- is imposed on the concerned IO (or all the IOs, in case there is more then one), to be recovered from their salary, as DAR is filed after 6 months from the occurrence of accident and for reasons noted above.

14.3. Furthermore, in view of directions already issued by Hon'ble Supreme Court in Gohar Mohammad (supra), as noted above that each and every State/Union Territory shall develop a specialized unit in every police station or at town level and post the trained police personnel to ensure the compliance of the provisions of the [M.V. Amendment Act](#) and the Rules, within a period of three months from the date of order of 15.12.2022, passed by Hon'ble Supreme Court, DCP South East as well as DCP south is directed to file a compliance report about the same by the next date of hearing.

15. As such, a copy of present order be sent to DCP South East and South for compliance and reporting on the next date of hearing through Naib Court Concerned.

(Naveen Kumar Kashyap)
PO-MACT (South-East)
Saket Court/ New Delhi
22.07.2023 ®