

## Rajesh Tyagi and Others Vs Jaibir Singh and Others

**Court:** Delhi High Court

**Date of Decision:** Sept. 24, 2010

**Acts Referred:** Motor Vehicles Act, 1988 " Section 158(6)

**Hon'ble Judges:** J.R. Midha, J

**Bench:** Single Bench

**Advocate:** Vikas Pahwa, Additional Standing Counsel for Delhi Police, Mangesh Kashyap, DCP, Atul Nanda, for UOI, Pankaj Seth, for Royal Sundaram Alliance Insurance Col. Ltd., Universal Sompo General Insurance Co. Ltd. and Ruchi Sindhwani, for GNCTD, for the Appellant;

### Judgement

J.R. Midha, J.

FAO No. 842/2003

1. The Claims Tribunal Agreed Procedure was formulated by the Committee appointed by this Court with the consent of all the seventeen

Insurance Companies. However, the Delhi Police consented to implement the same for a period of six months as a pilot project on trial basis. The

relevant portion of the order dated 16th December, 2009 is reproduced as under:

1. Mr. Vikas Pahwa, the learned Additional Standing Counsel for Delhi Police submits that the Delhi Police has issued a circular dated 22nd July,

2009 to all Deputy Commissioners of Police instructing them to strictly implement the duties of the police u/s 158(6) of the Motor Vehicles Act,

1988 and Delhi Motor Accident Claims Tribunal Rules, 2008. The learned Additional Standing Counsel submits that the Claims Tribunal Agreed

Procedure formulated by the Committee appointed by this Court imposes additional duties on the police which are beyond the scope of the Motor

Vehicles Act, 1988 as well as Delhi Motor Accident Claims Tribunal Rules, 2008. The learned Additional Standing Counsel, in particular, refers to

Clauses 3(B)(i)(ii) and 3(3) of the Claims Tribunal Agreed Procedure under which the Police has to collect the proof of age and income of the

deceased in the case of death, proof of the medical bills and expenses in the case of injuries and has also to verify the genuineness of the said

documents. The learned Additional Standing Counsel submits that it is not the legal duty of the Police to collect the said evidence and to verify the

genuineness of the same. The learned Additional Standing Counsel further submits that in case of hit and run accidents, it may not be possible to

complete the investigation within a period of 30 days as provided in Clause 4 of the Claim Tribunal Agreed Procedure. It is further submitted that

at times, the MLC and post-mortem report are not made available to them within 30 days of the accident.

2. Mr. Atul Nanda, the learned Standing Counsel for Union of India submits that all the seventeen Insurance Companies have agreed to settle the

accident cases as per the Claims Tribunal Agreed Procedure. It is further submitted that the Insurance Companies instead of relying on the report

of their Investigator, would prefer to rely on the report of a police officer who is a public servant and is accountable for his report. It is submitted

that the Insurance Companies have taken a big step forward by agreeing to a new mechanism for payment of compensation to the victims of the

road accident within a fixed time frame and the police should also show the grace to agree to perform an additional duty to serve the society. It is

further pointed out that the additional duties to be performed by the police are not such that it will increase the burden on the police. The Police

while conducting the investigation, can easily collect some more documents and information.

3. Mr. Arun Mohan, Senior Advocate and member of the Committee appointed by this Court vide order dated 3.12.2009 in MAC. APP. No.

236/2009 and MAC.APP.238/2009 submits that pending examination of the contentions raised by the Delhi Police as to their duties under the

Motor Vehicles Act, 1988, the Delhi Motor Accident Claims Tribunal Rules, 2008 and otherwise in law, the Claims Tribunal Agreed Procedure

may be implemented by the Insurance Companies and Delhi Police for a period of six months on trial basis as a pilot project.

4. The learned Additional Standing Counsel for Delhi Police on instructions from Mr. Manjesh Kashyap, DCP (Hqrs.), Delhi Police who is present

in the Court and has taken instructions from the Commissioner of Police during the hearing of this case, submits that Delhi Police is agreeable to

implement the Claims Tribunal Agreed Procedure on a trial basis as a pilot project for a period of six months without prejudice to the contentions

raised before this Court today.

2. The Reports of the Claims Tribunals and Delhi Police show that the Claims Tribunal Agreed Procedure has been successful in providing the

compensation to the victims of road accidents within a fixed time frame of 90 to 120 days.

3. Vide order dated 17th December, 2009, the Hon'ble Supreme Court, in *Jai Prakash Vs. National Insurance Co. Ltd. and Others*, has also

directed the police authorities to collect the evidence of age, income and dependants of the deceased victim of the road accident. The relevant

directions of the said order are reproduced hereunder:

#### Directions to Police Authorities

8. The Director General of Police of each State is directed to instruct all Police Stations in his State to comply with the provisions of Section

158(6) of the Act. For this purpose, the following steps will have to be taken by the Station House Officers of the jurisdictional police stations:

(i) Accident Information Report in Form No. 54 of the Central Motor Vehicle Rules, 1989 ("AIR" for short) shall be submitted by the police

(Station House Officer) to the jurisdictional Motor Vehicle Claims Tribunal, within 30 days of the registration of the FIR. In addition to the

particulars required to be furnished in Form No. 54, the police should also collect and furnish the following additional particulars in the AIR to the

Tribunal: (i) The age of the victims at the time of accident; (ii) The income of the victim; (iii) The names and ages of the dependent family members.

(ii) The AIR shall be accompanied by the attested copies of the FIR, site sketch/mahazar/photographs of the place of occurrence, driving licence

of the driver, insurance policy (and if necessary, fitness certificate) of the vehicle and postmortem report (in case of death) or the Injury/Wound

certificate (in the case of injuries). The names/addresses of injured or dependant family members of the deceased should also be furnished to the

Tribunal.

(iii) Simultaneously, copy of the AIR with annexures thereto shall be furnished to the concerned insurance company to enable the Insurer to

process the claim.

(iv) The police shall notify the first date of hearing fixed by the Tribunal to the victim (injured) or the family of the victim {in case of death) and the

driver, owner and insurer. If so directed by the Tribunal, the police may secure their presence on the first date of hearing.

4. The Delhi Police is successfully implementing the Claims Tribunal Agreed Procedure since 2nd April, 2010. Mr. Vikas Pahwa, Additional

Standing Counsel for Delhi Police on instructions from Mr. Mangesh Kashyap, DCP (Hqrs), Delhi Police submits that in view of the directions of

the Hon"ble Supreme Court in the case of Jai Prakash (Supra), the Delhi Police undertakes to extend the implementation of the Claims Tribunal

Agreed Procedure on permanent basis beyond 1st October, 2010.

5. The undertaking of Delhi Police to extend the implementation of the Claims Tribunal Agreed Procedure is hereby accepted. The Claims Tribunal

Agreed Procedure shall be implemented by all concerned including Claims Tribunals, Delhi Police and the Insurance Companies w.e.f. 2nd

October, 2010.

6. This Court appreciates the efforts of the Delhi Police in implementation of the Claims Tribunal Agreed Procedure and the notice of contempt

issued on 28th May, 2009 is hereby discharged.

7. Vide order dated 23rd March, 2010, the issue of cashless treatment to victims of road accidents was referred to the Division Bench to be

treated as Public Instruction Litigation. Vide order dated 7th September, 2010, Hon"ble Division Bench of this Court has referred back this matter

to this Court considering that the Hon"ble Supreme Court is already seized of the said issue. In that view of the matter, no further direction is

warranted on the said issue.

8. This appeal has already been disposed of vide judgment dated 8th June, 2009 and need not be listed again.

However, the six-monthly report of

compliance be filed by the Police and the Claims Tribunals before the Registrar (Vigilance) of this Court. The Registrar (Vigilance) shall place the

same before this Court if any further directions are deemed necessary.

9. This Court also appreciates the able assistance of the learned amicus curiae, Dr. Arun Mohan, Mr. Vikas Pahwa, Additional Standing Counsel

for Delhi Police and Mr. Atul Nanda, Standing Counsel for Union of India.

10. Copy of this order be sent to all the Claims Tribunals. Copy of this order be also sent to the Registrar (Vig.) and the Member Secretary, Delhi

Legal Services Authority.