

(2010) 09 DEL CK 0383

Delhi High Court

Case No: FAO 842 of 2003

Rajesh Tyagi and
Others

APPELLANT

Vs

Jaibir Singh and Others

RESPONDENT

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 Co. 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 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.