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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 24.01.2023

- + CM(M) 1087/2022
NEKHIL Petitioner
versus
RAVINDER SINGH & ORS. Respondents
- + CM(M) 1098/2022
CHANDRA SHEKHAR Petitioner
versus
RAVINDER SINGH & ORS. Respondents
- + CM(M) 1104/2022
CHANDRA SHEKHAR Petitioner
versus
RAVINDER SINGH & ORS. Respondents
- + CM(M) 1117/2022
KUSHAL Petitioner
versus
RAVINDER SINGH & ORS. Respondents

Appearances:

For petitioners:

Mr.Navneet Goyal, Adv.

For respondents:

Mr.Pradeep Gaur, Adv. for Insurance Company.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

REKHA PALLI, J (ORAL)

CM APPL. 44493/2022 in CM(M) 1087/2022

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

CM(M) 1087/2022, CM(M) 1098/2022, CM(M) 1104/2022 & CM(M) 1117/2022

1. The present decision disposes of four petitions, assailing four orders, all dated 30.05.2022 passed by the learned Motor Accident Claims Tribunal, Central, Tis Hazari Courts, New Delhi. Since the issues involved in all these petitions are identical, the same are being disposed of by this common judgment.
2. The present petitions under Article 227 of the Constitution of India, preferred by the claimants, seeks to assail the order dated 30.05.2022 passed by the learned Motor Accidents Claim Tribunal (MACT). Vide the impugned order, the learned Tribunal has rejected the four claim petitions preferred by the petitioners primarily on the ground that, despite opportunities having been granted to them, they had failed to file copies of documents necessary for adjudication of their claim.
3. For the sake of convenience, the facts of CM (M) 1087/2022 are being referred to hereinafter.
4. On 18.01.2022, when the petitioner, namely Nekhil, was travelling with his family members in car bearing registration no. DL 6 CQ 6722, the same collided with a *trolla* near Ateli bypass village Dhanonda, Haryana at about 10 PM. In the said accident, while the petitioner and his two family members namely Mr. Kushal and Mr. Chandra Shekhar received greivous injuries, Mr. Harsh, a co-passenger and one Mr. Hemant, the driver of the car, expired. Separate claim petitions were preferred on behalf of the legal heirs of the deceased as also the persons injured in the said accident. When the petitions were listed before the learned Tribunal on 11.04.2022, the

learned Tribunal, while noting the documents based on which the claim petitions had been filed, referred to the documents which it considered relevant but had not been filed, adjourned the matter for 30.05.2022, in order to enable the petitioners to file copies of the same.

5. On 30.05.2022, when the matter was next taken up for consideration, the learned Tribunal, while observing that the petitioners had not filed copies of the requisite documents, proceeded to hear arguments advanced by Mr. Ranjit K. Rai, proxy counsel on behalf of Mr. Manoj Kumar Rai, learned counsel for the petitioners.

6. Vide its impugned order, the learned Tribunal has dismissed all the claim petitions by holding that the petitioners had not filed the documents which were necessary for adjudication of their claims. Moreover there was no information available on the record to show as to whether the investigation by the police was complete and whether a chargesheet had been filed. While rejecting the claim petitions for want of documents, the learned Tribunal also expressed its anguish on filing of frivolous claim petitions in Motor Accident Claim Tribunals in Delhi in respect of motor accidents in other States on account of the office of the insurance company being located in Delhi.

7. In support of the petitions, learned counsel for the petitioners submits that the impugned orders are liable to be set aside as the learned Tribunal, has while dismissing the petitions for want of documents, adopted a hyper technical approach and has failed to appreciate the fact that the petitioners had lost two family members as recently as on 18.01.2022. Even otherwise, as the fateful accident took place in Haryana, it was not possible for them to collect all the necessary documents in such a short span of about one and a

half months as granted by the learned Tribunal.

8. He submits that the learned Tribunal ought to have appreciated these aspects and granted reasonable time to the petitioners to file copies of documents necessary for adjudication of their claims specially when on 30.05.2022, a request for an adjournment was made on their behalf. On the other hand, despite the absence of the arguing counsel for the parties, the learned tribunal proceeded to hear the proxy counsel for the petitioners, which fact is duly recorded in the order, and dismissed the claim petitions on the very same day. This approach of the learned Tribunal was not only against the spirit of the Motor Vehicles Act but also in violation of the principles of natural justice. He, therefore, prays that the impugned orders be set aside and the matters be remanded back to the learned Tribunal for adjudication on merits.

9. On the other hand, Mr. Gaur, learned counsel for the respondent, supports the impugned orders by contending that they are just and proper. He is, however, not in a position to seriously dispute that the petitioners were granted a very short window of one and a half months to procure the necessary documents.

10. Before dealing with the rival submissions of the parties, it would be appropriate to note the relevant findings of the learned Tribunal. I may begin by referring to para 4 of the impugned order, which reads as under:-

“I may note that the accident in the present case had taken place on 18.01.2022 at about 10:00 PM at Ateli bypass near Village Dhanonda, Police Station Ateli, Mahendergarh, Haryana in respect of which the present incomplete Claim Petition has been filed. The material documents i.e. report under Section 173 Cr.PC, statements of witnesses recorded under Section 161 Cr.PC, seizure

memo of the offending vehicle, mechanical inspection report of the vehicles involved in the alleged accident, etc., are not filed. Only photocopy of Aadhar Card of petitioner, photocopy of MLC, photocopy of FIR, photocopy site plan, photocopy of arrest memo, photocopy of driving license, photocopy of Registration Certificate and photocopy of insurance policy, have been placed on record. There is also no information if investigations are complete or if any chargesheet has been tiled by the investigating agency (certified copy of the charge-sheet not filed)”

11. It would also be relevant to note para 10 of the impugned order, wherein the learned Tribunal specifically mentioned the documents which, in its opinion, were necessary for adjudication of the petitioners’ claim. The same reads as under:

“ That the certified copy of the charge-sheet has not been filed.

That Verification Report (Form X) and report under Section 173 of Cr.PC have been withheld. The only documents placed on record are the photocopy of Aadhar Card of petitioner, photocopy of MLC, photocopy of FIR, photocopy site plan, photocopy of arrest memo, photocopy of driving license, photocopy of Registration Certificate and photocopy of insurance policy. In fact, there is no information on record whether any charge-sheet has been filed by the Investigating Agency before the competent court or Mahendergarh, Haryana or not. The entire record has been withheld from this Court/ Tribunal which is liable to be read against the petitioner.

That the first information of accident i.e. the Daily Diary General Diary regarding the accident has not been placed on record and apparently concealed since this document would reveal the first information regarding the history of accident.

That the various documents i.e. the statements of witnesses recorded under Section 161 Cr.P.C.; Case Diaries; Seizure memo of the offending vehicle; Mechanical Inspection Report etc. have not been placed on record and concealed. Investigations of Road Accident by the Investigating Agency, have been withheld, for which an adverse inference is likely to follow.

That there is absence of material on record to confirm the satisfactory compliance of provisions of Section 158(6) of Motor Vehicles Act. Neither the status of the Criminal Case instituted before the concerned court at Mahendergarh, Haryana has been placed on record nor the status of the proceedings in compliance of provisions of Section 158(6) of Motor Vehicles Act (before the competent Court/ Tribunal) has been placed before this Tribunal [Reference is made to the judgment in the case of Jai Prakash Vs. National Insurance Co. Ltd. reported in 2010 (2) SCC 607 Para 12].

That there is non-filing of any documents and absence in the pleadings, regarding any intimation of accident given to Claims Tribunal and Insurance Company within 24 hours of the accident [Section 158(6) of Motor Vehicles Act].

Mechanical Inspection Report (Form-IX) which could confirm the technical defect or the rashness and negligence of driver of the offending vehicle, has been withheld.

That the certified copy of the MLC has not been placed on record and only photocopy has been filed.”

12. Having considered the submissions of the learned counsel for the parties and pursued the impugned orders, I am of the view that the learned

Tribunal cannot be faulted in holding that the claim petitions could not be decided in the absence of the necessary documents. However, the issue in the present case is not as to whether the petitions should have been decided without copies of necessary documents but as to whether the petitioners ought to have been granted an adjournment as prayed for by their proxy counsel. It is an admitted position that the learned Tribunal took up the matter for preliminary hearing for the first time on 11.04.2022 and accorded an opportunity till 30.05.2022 to the petitioners to produce the necessary documents. However, when the petitioners were not able to file the relevant documents by 30.05.2022, the learned Tribunal not only proceeded to hear arguments of their proxy counsel but also hastened to dismiss the claim petitions on the same day. In my view, the learned Tribunal, before rejecting the petitioners' prayer for adjournment, ought to have considered the fact that the accident had taken place in a village in Haryana, wherein not only two family members of the petitioners had lost their lives but even the petitioners themselves had suffered grievous injuries. In these circumstances, the petitioners, who had suffered both physically and mentally could not have been faulted for not being able to collect the requisite documents in time.

13. In my view, the learned Tribunal, instead of hastening to dismiss the claim petitions, ought to have considered the genuine request of the petitioners and provided reasonable time to them to produce the necessary documents and then present their case. It is not as if the petitioners had been seeking repeated adjournments for producing relevant documents that the learned Tribunal was compelled to dismiss the claim petitions of the petitioners. In these circumstances, I am of the considered view that the

learned Tribunal, has given a complete go-by to the principles of natural justice and has proceeded to dismiss the claim petitions without taking into account the plight of the petitioners.

14. The learned Tribunal also appears to have lost sight of the fact that the Motor Vehicles Act is in the nature of a welfare legislation, with an aim to ameliorate the sufferings of victims of the motor vehicle accidents. The Tribunal, while dealing with such claim petitions under the Act is not bound by the strict rules of evidence and is expected to follow the principles of natural justice, equity and good conscience. A more pragmatic and liberal approach rather than a hyper technical approach is required to be adopted by the learned Tribunals while dealing with cases of motor vehicle accidents.

15. In the present case, the decision of the learned Tribunal to dismiss the claim petitions for want of documents without giving sufficient opportunity to the petitioners to obtain copies thereof goes against the very spirit with which the Motor Vehicles Act was brought into effect. The learned Tribunal has not only adopted a hyper technical approach but also erred in presuming on the basis of the limited documents available on record that the claim of the petitioners was frivolous and fabricated. I, therefore, have no hesitation in holding that the learned Tribunal ought to have accorded an opportunity to the petitioners to produce all the relevant documents for adjudication of their claim.

16. In the light of the aforesaid, the impugned orders, are wholly unsustainable and are, accordingly set aside. The claim petitions are accordingly remanded back to the learned Tribunal for fresh adjudication. However since the claim petitions cannot be decided without the requisite documents being brought on record, the petitioners are granted four weeks'

time to file all documents which would be necessary for adjudication of their claim petitions.

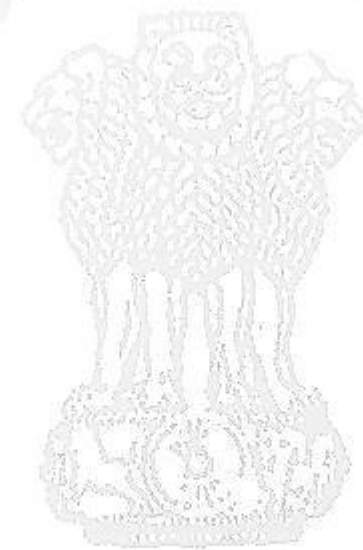
17. The matter will be listed before the learned Tribunal for preliminary consideration on 15.03.2023. In case, for any reason, the said date is not suitable to learned Tribunal, the matters may be listed on a date as deemed fit by the learned Tribunal.

18. The petitions are accordingly allowed in the aforesaid terms.

JANUARY 24, 2023

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(REKHA PALLI)
JUDGE



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