



2023:DHC:8129



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of decision: 07.11.2023***

+ CM(M) 1160/2022

SUMESH DEVI & ORS.

..... Petitioners

Through: Mr.Ved Vyas Tripathi, Adv.

versus

KUNWAR PAL & ORS.

..... Respondents

Through: Ms.Bharti Sharma &
Mr.Abhishek Gupta, Adv. for
R-1 & R-2.Mr.Ravi Sabharwal, Adv. for
R-3.**CORAM:****HON'BLE MR. JUSTICE NAVIN CHAWLA****NAVIN CHAWLA, J. (ORAL)**

1. This petition has been filed by the petitioners challenging the order dated 01.06.2022 (hereinafter referred to as the 'Impugned Order') passed by the learned Motor Accident Claims Tribunal, South-East District, Saket Courts, New Delhi (hereinafter referred to as the 'Tribunal') in MACT No. 972/2019 titled ***Sumesh Devi v. Kunwar Pal***, putting the Claim Petition filed by the petitioners herein in the category of doubtful cases in terms of the directions passed by the Supreme Court in Special Leave Petition (Civil) No. 1110/2017 titled ***Shafiq Ahmed v. ICICI Lombard General Insurance Co. Ltd.***; directing the Ahlmad of the learned Tribunal/Court to send a copy of the order to the Registrar General of this Court for information; and to adjourn the Claim Petition *sine die* with



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liberty to revive the same as per the directions of this Court or the Supreme Court.

2. The learned counsel for the petitioners submits that the Claim Petition filed by the petitioners has been categorized as one falling under the doubtful category in terms of the directions of the Supreme Court in *Shafiq Ahmed* (Supra), only on the ground that the accident in question had taken place within the jurisdiction of Police Station Sector 39, Noida, Gautum Budh Nagar, Uttar Pradesh; the petitioners are residents of Bulandshahar, Uttar Pradesh; respondent no.1/driver is a resident of Farukhabad, Uttar Pradesh, while the respondent no.2/owner is the resident of Noida. The learned Tribunal, however, failed to appreciate that the insurance policy for the Offending Vehicle was issued by respondent no.3 herein, that is the Insurance Company, from its Delhi Office. He submits that, therefore, in terms of Section 166(2) of the Motor Vehicles Act, 1988 (hereinafter referred to as 'Act'), the jurisdiction of the Tribunal at Delhi was rightly invoked.

3. He further submits that the learned Tribunal had no material before it to categorize the Claim Petition filed by the petitioner in the category of doubtful cases inasmuch as respondent no.3 had not filed any complaint in this regard and in terms of the Central Motor Vehicles (Fifth Amendment) Rules 2022 (hereinafter referred to as the 'Amendment Rules'), notified by the Ministry of Road Transport and Highways under Notification no. G.S.R. 164(E) dated 25.02.2022, to come into



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effect from 01.04.2022. He further submits that merely because earlier the FIR was registered against an unknown vehicle while later, upon investigation a charge-sheet came to be filed against the Offending Vehicle, the Claim Petition cannot be said to be falling in the doubtful category.

4. This Court on 25.09.2023 had passed the following order:-

*“1. This petition has been filed challenging the order dated 01.06.2022 (hereinafter referred to as the ‘Impugned Order’) passed by the learned Motor Accidents Claims Tribunal, South-East District, Saket, New Delhi (hereinafter referred to as the ‘Tribunal’) in MACT Case no.972/2019, titled **Sumesh Devi v. Kunwar Pal**.*

*2. By the Impugned Order, the learned Tribunal has doubted the genuineness of the claim petition filed before it and has referred the same to the learned Registrar General of this Court for information in terms of the directions of the Supreme Court in the case of **Safiq Ahmad v. ICICI Lombard General Insurance Co. Ltd. & Ors.** (Special Leave Petition (Civil) No.1110/2017). The learned Tribunal has further directed the claim petition to be adjourned sine die with liberty to revive the same as per the direction of the High Court or the Supreme Court.*

*3. In **Safiq Ahmad** (supra), by an order dated 05.01.2017, the Supreme Court had taken cognizance of the fake cases/fake claim petitions being made before the Motor Accidents Claims Tribunal, seeking compensation under the Motor Vehicles Act, 1988 and under the Workmen Compensation Act, 1923. Notice was issued by the Supreme Court to all the States/Union Territories and also to the Insurance Companies, to inquire as to the steps that can be taken to rule out the*



filing of the fake cases/fake claim petitions and the remedial measures that can be taken in that regard.

4. *Thereafter, various orders have been passed in the above Special Leave Petition; last being on 12.09.2023, which directs the State Governments to file a Status Report with respect to the 'fake/suspicious claim cases' and the action taken in this regard for verification, registration of cases, etc.. Similar direction has been issued to the Insurance Companies as well.*

5. *By the Central Motor Vehicles (Fifth Amendment) Rules, 2022, notified by the Ministry of Road Transport and Highways under Notification No. G.S.R. 164(E) dated 25.02.2022, to come into the effect from 01.04.2022, the procedure for investigation of Motor Vehicle Accidents under Rule 150A of the Rules has been stipulated. Clause 25 of the Procedure reads as under:*

"25. Duty of Insurance Companies to verify the claim

The Insurance Companies are duty bound to verify the correctness/genuineness of every claim. The Insurance Companies shall direct their own officer(s) or appoint an investigator or surveyor to verify the claim.

If the statements made in the DAR are found to be incorrect, the Designated Officer shall send the copy of the report of the surveyor/investigator to the Deputy Commissioner of Police concerned. If the Insurance Company, upon investigation, finds a case of fake accident, the Insurance Company shall be at liberty to file an application before the Deputy Commissioner of Police concerned to requisition the call detail record (CDR) of the driver of the offending vehicle."

6. *In the present case, the learned Tribunal has doubted the genuineness of the claim petition, observing that the accident had taken*



place in the jurisdiction of Police Station Sector 39, Noida, Gautam Budh Nagar, Uttar Pradesh; claim petitioners are residents of Bulandshaher, Uttar Pradesh; while the respondent no.1/driver is a resident of Farukhabad, Uttar Pradesh; the respondent no.2/owner is the resident of Noida, Gautam Budh Nagar, Uttar Pradesh. The learned Tribunal has observed that therefore, none of the parties are residents within the territorial jurisdiction of the Court. The learned Tribunal has further found that the FIR was registered against some unknown vehicle. It is only in the charge-sheet later filed that the identity of the offending vehicle was named.

7. The learned counsel for the respondent no.3 reiterates that the learned Tribunal has rightly categorized the claim petition as a suspicious claim and has referred the same to the High Court.

8. I have inquired from the learned counsel for the respondent no.3 if any action has been taken by the respondent no.3 in terms of the Clause 25 of the abovementioned Procedure for investigation of Motor Vehicle Accidents stipulated by the Notification dated 25.02.2022. He prays for time to seek instruction in this regard.

9. A report be also called for from the learned Tribunal as also from the learned Registrar General of this Court on further steps that have been taken by them pursuant to the Impugned Order dated 01.06.2022. Such reports be filed within a period of four weeks from today.

10. List on 7th November, 2023."

5. In compliance with the above direction, the learned Registrar General of this Court has filed its report stating that vide office notes dated 11.04.2022, 22.07.2022, 24.01.2023, 22.03.2023 and 05.09.2023, the details of the doubtful/fake cases of Motor Accident Claims, received from various Motor



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Accidents Claim Tribunals, were taken on record. It is further stated that vide letter dated 04.11.2023, all the Principal District and Sessions Judges in Delhi have been further requested to seek information from the Tribunals as to whether any doubtful/fake cases of the Motor Accident Claims, which *prima facie* may require investigation, have been ascertained by them till date.

6. Insofar as the present Claim Petition is concerned, it is reported that the Impugned Order being a judicial order, no further action is required to be taken thereon on the administrative side, and it is for the learned Tribunal to take action in accordance with law wherever any motor accident claim is found to be doubtful/fake.

7. As far as respondent no.3 is concerned, the learned counsel for respondent no.3 admits that no action has been taken by respondent no.3 in terms of Clause 25 of the Procedure for investigation of motor vehicle accident under Rule 150A of the Motor Vehicle Rules as amended by the Amendment Rules.

8. In view of the above, as the learned counsel for the petitioners submits that the jurisdiction of the learned Tribunal has been invoked on the basis that the insurance policy for the Offending Vehicle had been taken at Delhi, and this issue has not been adverted to by the learned Tribunal in the Impugned Order, therefore, the Impugned Order adjourning the matter *sine die* only on the ground of *prima facie* lack of territorial jurisdiction, cannot be maintained. This issue has to be



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determined by the learned Tribunal after allowing the parties to lead evidence thereon and hearing them.

9. Equally, merely because the FIR was registered against an unknown vehicle, however, later a charge-sheet was filed naming the Offending Vehicle as the cause for the accident, cannot by itself be a ground to place the Claim Petition filed by the petitioner herein under the doubtful category, as stipulated by the directions passed by the Supreme Court in *Shafiq Ahmed* (Supra). As noted hereinabove, respondent no.3 has not taken any action in terms of the Amendment Rules. In any case, this will be a question of fact that would need to be inquired and adjudicated by the learned Tribunal after considering the evidence led by the parties on this issue. The claimants could not have been left remediless only based on a *prima facie* doubt expressed by the learned Tribunal in this regard.

10. In view of the above, the Impugned Order is set aside. The learned Tribunal is directed to consider the Claim Petition filed by the petitioner herein on merits. It is made clear that any or all observations made by this Court in the present order are only for the purposes of determining whether the Claim Petition filed by the petitioner could have been adjourned *sine die*. The same shall not be treated as an expression on the merits of the Claim Petition or its maintainability. All objections of the respondents in this regard shall be kept open and shall be considered by the learned Tribunal remaining uninfluenced by any observation made in the present order.



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11. The petition is allowed in the above terms. There shall be no order as to costs.

12. The parties shall appear before the learned Tribunal for further proceedings on 23rd November 2023.

NAVIN CHAWLA, J

NOVEMBER 7, 2023/rv/RP

Click here to check corrigendum, if any