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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CM(M) 3568/2024

THE NEW INDIA ASSURANCE CO. LTDPetitioner

Through: Mr. JPN Shahi, Advocate.

versus

VICKY

.....Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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12.03.2025

1. The present petition is filed challenging the order dated 23.08.2024 (hereafter '**impugned order**'), passed by the learned Presiding Officer, Motor Accident Claims Tribunal, in MACT 377/2024.

2. By the impugned order, the learned Tribunal dismissed the application filed by the petitioner Insurance Company under Order 7 Rule 11 of the Code of Civil Procedure, 1908 ('**CPC**') seeking rejection of the plaint on the ground of limitation.

3. It is argued by the learned counsel for the petitioner that the accident took place on 12.05.2023 and the FIR was registered on 13.05.2023, however, the Detailed Action Report ('**DAR**') was filed belatedly on 31.05.2024.

4. It is argued that there is a huge delay in filing of the DAR and the same is hit by Section 166 (3) of the Motor Vehicles Act, 1988 ('**MV Act**'). It is further argued that the learned Tribunal is not empowered to condone the delay in this respect.

5. I have heard the learned counsel and perused the impugned order.

6. The learned Tribunal, in the impugned order, has observed that while the submission of the petitioner in respect of there



being a delay in filing of DAR is correct, however, the same by itself cannot be a reason to reject the DAR on technical reasons and deprive the injured from just and fair compensation.

7. Section 166 (3) of the MV Act was inserted by way of an amendment in the year 2019 and came into effect from 01.04.2022. The said provision provides that no application for compensation shall be entertained unless it is made within six months of the occurrence of the accident.

8. The *vires* of the concerned amendment has been challenged in the case of ***Bhagirathi Dash v. Union of India & anr.*** : WP (C) No. 166/2024 and the issue is pending consideration before the Hon'ble Apex Court. On 15.01.2025, the Hon'ble Apex Court recorded the submission of the counsel for Ministry of Road Transport and Highways that the amendment which is under challenge, is proposed to be amended.

9. Insofar as the argument in relation to the Tribunal's power to condone the delay is concerned, this Court considers it apposite to refer to the case of ***Sreelakshmi T (Minor) Aged 11 Years, Represented By Father Ajesh T v. Majula Paradan & Ors*** : 2023:KER:4900, where while dealing with a batch of matters where claims had been dismissed by the Tribunal under Order 7 Rule 11 of the CPC since the same were not filed within 6 months of the accident, the Hon'ble High Court of Kerala held that the provisions of Limitation Act, 1963 will be applicable for entertaining the petitions claiming compensation beyond six months of the accident as there is no explicit bar against the same. It was observed that the claim petitions which were filed beyond six months cannot be dismissed *in limine*.

10. Although this Court *prima facie* concurs with the aforesaid



view, the said judgment was challenged before the Hon'ble Apex Court and the operation of the said judgment was stayed.

11. It is also relevant to take note of the judgment passed by the Hon'ble Madras High Court in the case of ***Malaravan v. Praveen Travels (P) Ltd. : 2023 SCC OnLine Mad 5467***, where it was held that even if an FIR is sent by the police to the Tribunal, the same should be treated as a claim petition. It was held that the duty of reporting is with the police and the duty to process the information is with the Tribunal, whereby the claimant need not be made to suffer the burden of his claim being barred by time. It was further observed that the amendment under Section 166 (4) of the MV Act does not speak about any particular sort of accident report, but speaks about “*any report that has been sent by the police*”.

12. In the case of ***Sarah Mathew v. Institute of Cardio Vascular Diseases : (2014) 2 SCC 62***, while discussing the issue of calculation of limitation period under Section 468 of the Code of Criminal Procedure, 1973 ('CrPC'), it was held that the relevant date is the date of filing of the complaint or the date of institution of the prosecution. Under the provision of Section 468 of the CrPC, it is provided that no Court shall take cognizance of an offence after the expiry of period of limitation. It was noted that if Section 468 of the CrPC is interpreted to mean that a Magistrate cannot take cognizance of an offence after period of limitation without any reference to the date of filing of the complaint, it would be rendered unconstitutional. It was further observed that it would be unreasonable if the delay caused by the court in taking cognizance of a case would deny justice to a complainant.



13. In the case of applications under Section 166 of the MV Act, as noted by *Malaravan v. Praveen Travels (P) Ltd.* (*supra*), the duty of reporting the accident as well as processing the information has been placed on the police and the Tribunal respectively. While an application for compensation under Section 166 of the MV Act can be made by the claimants as well, the very purpose of Section 166(4) of the MV Act, which makes allowance for reports of accidents to be treated as an application for compensation, will be rendered otiose if the delay caused by the police in reporting the accident, or the Tribunal in processing the information given by the police, denies justice to a complainant. The same would shift the onus for delay on the claimants with no regard to the beneficial nature of the provision which has sought to free the claimants from the shackles of searching the documents necessary for filing the claim. I respectfully concur with the view taken by the Hon'ble Madras High Court.

14. In the present case, the FIR was registered on the very next day after the incident, however, the DAR was filed belatedly after more than one year on 31.05.2024 without any fault of the claimant. The claimant cannot be non-suited for fault of the authorities on whose actions the claim petitions proceeds before the Tribunal.

15. In view of the aforesaid discussion, this Court finds no infirmity in the impugned order.

16. The present petition is dismissed in the aforesaid terms.

AMIT MAHAJAN, J

MARCH 12, 2025

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