
(2011) 11 GAU CK 0003
In the Gauhati High Court
Case No : Writ Petition (C) No. 2764 of 2011

Mr. Kanai Lal Das @ Kanu

APPELLANT

Vs

State of Assam and Others

RESPONDENT

Date of Decision : 23-11-2011

Acts Referred:

Central Motor Vehicles Rules, 1989 — Rule 150, 150(1), 150(2)
Motor Vehicles Act, 1988 — Section 158, 158(6), 160

Citation : (2013) 2 ACC 549 : (2013) ACJ 729 : (2012) 1 GLD 304

Hon'ble Judges : Ujjal Bhuyan, J

Bench : Single Bench

Advocate : A.K. Das, for the Appellant; J. Handique, Government Advocate, Assam, for the Respondent

Final Decision : Allowed

Judgement

Ujjal Bhuyan, J.—Heard Mr. A.K. Das, learned counsel appearing for the petitioner. Also heard Mr. J. Handique, learned Government Advocate, Assam for the respondents. The petitioner who is an employee in a private firm met with an accident on 13.7.2008 while he was travelling along with his wife and child in his motor bike bearing registration No. AS-01-Q-4857. According to the petitioner, his motor bike was knocked down by a speeding Maruti Car coming from the Lokhra side bearing registration No. AS-11-B/4719. He suffered serious injuries for which he had to be hospitalised. Because of his hospitalization, there was delay in lodging the FIR which he did on 8.8.2008 before the Gorchuk police station. The Gorchuk police station registered a case being Gorchuk P.S. Case No. 68 of 2008. Aggrieved by the tardy progress of investigation, the petitioner filed a complaint case in the Court of the Chief Judicial Magistrate, Kamrup at Guwahati, which was registered as Complaint Case No. 98 of 2009. In the proceeding of the said case, the traffic in-charge of Gorchuk police station submitted a report dated 16.3.2010. In that report it was stated that one Sri Bijan Goswami is the owner of the offending vehicle bearing registration No. AS-11-B/4719. According to the petitioner, because of the delay of the Gorchuk

police station in issuing Form No. 54 under the Central Motor Vehicles Rules, 1989, he could not submit any claim petition before the Motor Accident Claims Tribunal, Guwahati. After more than 2(two) years, the said Form No. 54 was handed over to him on 20.3.2010 by the traffic in-charge of Gorchuk police station. In the said Form No. 54, the name of the owner, registration number and other particulars of the offending vehicle were not disclosed. Instated, the name of the petitioner and the particulars of his motor bike have been incorporated. The petitioner has, therefore, approached this Court seeking a direction to the Gorchuk police station to issue fresh Form No. 54 incorporating therein the name of the owner and the particulars of the offending vehicle.

This Court by order dated 1.6.2011 had directed the learned State counsel to obtain necessary instructions within 10 days. On 13.6.2011, this Court directed the respondent No. 5 i.e. the traffic incharge, Gorchuk police station to file an affidavit indicating the reasons for not disclosing the name of the owner of the vehicle allegedly involved in the accident in the Form No. 54 supplied to the petitioner. However, no such affidavit has been filed. When the matter was called upon yesterday i.e. on 22.11.2011, learned State counsel produced a status report dated 13.6.2011 submitted by the traffic-in-charge and Investigating Officer, Gorchuk Police Station. As per the said report, the offending vehicle is yet to be traced out and seized, further stating that efforts are being made to complete the investigation. In view of the clear statutory provisions and the decision of the Apex Court in this regard, I am of the considered opinion that the matter need not detain us any further.

2. The heading of Section 158 of the Motor Vehicles Act, 1988 (briefly "the Act" hereafter) is production of certain certificates, licence and permit in certain cases. As per sub-section (6) of Section 158, as soon as any information regarding any accident involving death or bodily injury to any person is recorded or report under the said section is completed by the police officer, the officer in-charge of the police station shall forward a copy of the same within thirty days from the date of recording of the information or as the case may be, on completion of such report to the claims Tribunal having jurisdiction and a copy thereof should also be sent to the concerned insurer. The said sub-section further provides that where a copy is made available to the owner, he shall also within 30 days of receipt of such report, forward the same to the claims tribunal and insurer. Section 160 of the Act enjoins a duty on the registering authority or the officer-in-charge of the concerned police station to furnish the particulars of the vehicle involved in the accident. For a better appreciation of the provisions of Section 160 of the Act, the same is quoted hereunder :

160. Duty to furnish particulars of vehicle involved in accident.--A registering authority or the officer in charge of a police station shall, if so required by a person who alleges that he is entitled to claim compensation in respect of an accident arising out of the use of a motor vehicle, or if so required by an insurer against whom a claim has been made in respect of any motor vehicle, furnish to

that person or to that insurer, as the case may be, on payment of the prescribed fee any information at the disposal of the said authority or the said police officer relating to the identification marks and other particulars of the vehicle and the name and address of the vehicle at the time of the accident or was injured by it and the property, if any, damaged in such form and within such time as the Central Government may prescribe.

Rule 150 of the Central Motor Vehicles Rules, 1989, refers to furnishing of copies of reports to the claims tribunal. As per sub-rule (1), the police report referred to in subsection (6) of Section 158 shall be in Form No. 54. Sub-rule (2) of Rule 150 provides that a registering authority or a police officer who is required to furnish the required information to the person eligible to claim compensation u/s 160, shall furnish the information in Form 54, within seven days from the date of receipt of the request and on payment of a fee of rupees ten. Form 54 is in a statutory format having 13 Clauses, which is reproduced hereunder :

Form 54 [See Rule 150(a) and (2)] Accident Information Report

1. Name of the police station :
2. CR No./Traffic Accident Report :
3. Date, time and place of the accident :
4. Name and full address of the injured/deceased :
5. Name of the hospital to which he/she was removed :
6. Registration Number of vehicle and the type of the vehicle :
7. Driving Licence particulars :
 - (a) Name and address of the driver :
 - (b) Driving licence number and date of expiry :
 - (c) Address of the issuing authority :
 - (d) Badge No. in case of public service vehicle :
8. Name and address of the owner of the vehicle at the time of the accident :
9. Name and address of the Insurer Company with whom the vehicle was insured and the particulars of the Divisional Officer of the said insurance company :
10. Number of Insurance Policy/Insurance Certificate and the date of validity of the Insurance Policy/Insurance Certificate :
11. Registering particulars of the vehicle (class of vehicle)
 - (a) Registration No.:
 - (b) 46[Engine number or motor number in the case of Battery Operated Vehicles] :

(c) Chassis No. :

12. Route Permit Particulars :

13. Action taken, if any and the result thereof :

3. The Apex Court in the case of General Insurance Council and Others v. State of Andhra Pradesh and Others reported in (2007) 12 SCC 354, after observing that the actual implementation of the aforesaid provisions of the Act and the Rules is very disheartening, held that it is mandatory on the part of the police officer under sub-section (6) of Section 158 to forward a copy of the report to the jurisdictional claims tribunal and to the Insurance Company concerned as soon as any information regarding any accident involving death or bodily injury is recorded or a report u/s 158 is completed by the police officer. Observing that the non-compliance of the provisions of Section 158(6) of the Act is one of the reasons for the long pendency of claim petitions before the claims tribunal, the Apex Court explained the expression "as soon as" meaning as soon as practicable that is the report has to be forwarded with promptitude. Holding that the requirement as envisaged u/s 158(6) is a mandatory requirement, the Apex Court observed that the non-compliance of the same cannot be justified. The Apex Court, therefore, directed all the State Governments and the Union Territories to instruct all the concerned police officers about the need to comply with the provisions of Section 158(6) of the Act keeping in view the requirement indicated in Rule 150 and in Form 54. The Apex Court further directed that there should be periodical checking by the concerned Inspector General of Police to ensure compliance with the aforesaid mandatory requirements. In the event of any default, appropriate action against the erring officials was directed.

This judgment was delivered on 9.7.2007. Four years have passed but it appears that the state authorities are yet to comprehend the import of the same. It is clear that the respondent No. 4 has not complied with the requirement of the aforesaid statutory provisions. Even the Form 54 furnished to the petitioner, which is annexed to the writ petition as Annexure 4, is defective/incomplete. As pointed out above, the statutory Form 54 contains 13 Clauses, whereas in the Form 54 furnished to the petitioner, only 10 Clauses are mentioned and instead of furnishing the name and address of the owner and the registration particulars of the offending vehicle, the respondent No. 4 has furnished such details of the petitioner, which in any case are available with the petitioner. The plea taken in the status report that the particulars of the offending vehicle could not be collected as because it could not be traced out and seized is not tenable as such information would be readily available in the office of the concerned registering authority (District Transport Officer).

4. In view thereof, the respondent No. 4 is directed to furnish to the petitioner the Form No. 54 duly filled up in the correct format, disclosing therein the name and address of the owner and the registration particulars of the offending vehicle within 30 days from today.

5. Since the directions of the Apex Court appears to have not been complied with, let a copy of this order be sent to the respondent No. 2, the Director General of Police, Assam for taking necessary action as directed by the Apex Court. A copy of this order be also furnished to Mr. J. Handique, learned Government Advocate, Assam for doing the needful.

6. Writ petition stands allowed as indicated above. For the delay by the respondent No. 4, a cost of Rs. 1000/- is hereby imposed, which shall be deposited by the said respondent in the Registry of this Court within 30 (thirty) days from today.