
(1998) 11 MP CK 0058
In the Madhya Pradesh High Court
Case No : Writ Petition No. 155 of 1996

N.D. Singhal

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 10-11-1998

Acts Referred:

Motor Vehicles Act, 1988 — Section 196
Penal Code, 1860 (IPC) — Section 279, 304A

Citation : (1999) 1 ACC 39 : (1999) 2 MPJR 205 : (1999) 1 MPLJ 118

Hon'ble Judges : A.K. Mathur, C.J.; Shraavan Shanker Jha, J

Bench : Division Bench

Advocate : J.P. Gupta, Party in Person, for the Appellant; J.D. Suryavanshi, Government Advocate and D.K. Katare, for the Respondent

Judgement

A.K. Mathur, C.J.

This is a public interest litigation whereby the petitioner, who is an Advocate of this Court has brought this cause asserting serious problem facing claimants prosecuting their claim petitions before Tribunals. Therefore, he has prayed that respondents be directed that whenever an accident takes place and if any criminal case is registered against accused under Sections 304A and 279, Indian Penal Code he be charged for violation of Section 196 of the Motor Vehicles Act, 1988 also. It is also prayed that a direction be given to the subordinate Judicial Courts to the effect that at the time returning of the vehicle on suparatnama the Criminal Courts should ensure that insurance policy of the vehicle is also seized and it should be their duty to see whether the vehicle in question is insured or not and whether the insurance is current or not. It is also prayed that in the event the vehicle is found to be not insured, then the claimant should be paid a sum of Rs. 50,000/- by way of interim compensation by the owner of vehicle in the event of death and injured should be paid an interim compensation in the sum of Rs. 25,000/- by the owner of the vehicle.

It is a common experience that with the increased of the traffic, the incidents of

road accident have enormously increased. Though sufficient provisions have been made in the Motor Vehicles Act, 1988 for compensating the victims but, there are number of problems which arise in execution and claim cases remain pending on account of non-service of the non-claimants resulting sometimes even in denial of compensation to the claimants. The learned counsel has highlighted some of the difficulties being faced in the Courts day to day in claim petitions, it is very difficult to find out the name of the owner of the vehicle as well as the driver thereof involved in the accident, and if they are found and arrayed as parties/non-claimants then service on these non-claimants is another big problem. Similarly the difficulty also arises to find out insurance company whether vehicle is insured or not and if insured then with which insurance company and policy amount. These practical difficulties sometimes totally frustrate the claims or sometimes cause undue delay. In order to mitigate these difficulties, an administrative instruction was issued by the High Court on 20th June 1997 which is as under :

"As directed, I have to request you to instruct all the judicial officers working under you in the district that they will not release seized vehicle on suparatnama unless insurance papers are deposited in the Court along with driving licence.

It may be ensured that these directions are strictly complied in future and in case of non-compliance of the aforesaid directions, disciplinary action will be taken against the concerned judicial officers."

The learned counsel submits that notwithstanding the above direction to the Courts, the Claimants are facing a great deal of inconvenience in obtaining compensation. Sometimes difficulty arises when the vehicle is not insured in that case it is very difficult to recover compensation amount in spite of a decree passed by the Claims Tribunal from the owner and the driver. Keeping in view all these difficulties, we propose to issue following directions :

1. The Criminal Courts are directed to see as and when the Criminal case is brought before them arising out of the accident either by heavy vehicle or light vehicle or any three wheeler or two wheeler, they will ensure that the original policy of the insurance of the vehicle in question along with driving licence of the person concerned are seized and they shall not be released to the concerned persons unless the photocopies of the insurance policy as well as driving licence are deposited by the concerned accused persons.

They shall also ensure that at the time of the delivery of the vehicle involved in the accident on suparatnama in the event of vehicle not insured then solvent security is obtained from the owner of vehicle in question or his agent and along with solvent security in case of heavy/light vehicle a cash security in a sum of Rs. 50,000/- per victim is taken or bank guarantee then alone they will release the vehicle in question on suparatnama. In case of insured vehicle they may obtain the current copy of the insurance policy and the driving licence,

In case of two wheeler or three wheeler if it is not insured with the insurance

company then in that case they will release the vehicle on suparatnama on obtaining solvent security along with cash security/Bank guarantee in the sum of Rs. 15,000/- per victim.

Shri J. P. Gupta, appearing as amicus curiae submitted that in case of hit and run State Government should be directed that legal representative of such victim should also be paid compensation of Rs. 50,000/-. This direction cannot be given however we have been given to understand that some amount is reserved by the Collector for such a situation the State Government should consider how best such victims can be compensated as a State Social measure.

It is brought to our notice that directions are required to be issued to the State Government that if vehicle involved in the accident is not insured, in that case that vehicle will not be released unless it is insured and accused along with other criminal charges is also charged u/s 196, Motor Vehicles Act.

We direct the State Government to issue directions to investigating agency that they will ensure that as and when such accident takes place it is their responsibility that vehicle in question should be got insured if not insured and in the event the vehicle is not insured accused is also charged u/s 196, Motor Vehicles Act.

However, so far as State Vehicles as well as vehicles of Central Government are concerned, since they are not insured, therefore, at the time of suparatnama of vehicles cash or solvent security shall not be insisted.

Before parting with the case we may record our appreciation of Shri J. P. Gupta learned counsel who assisted this Court and other learned counsel also.

Petition is accordingly disposed of with the above directions. Copy of the order be sent to the Government of State of Madhya Pradesh as well as to all the District Judges of the State who, in turn shall apprise regarding this order to all the subordinate Courts and shall see that the directions given above are properly implemented by them in discharging of their duties.