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THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

No. HC.III-15/2018/ 476 /G

From: **Shri R. A. Tapadar,**
Registrar (Judicial),
Gauhati High Court, Guwahati.

To:

The District & Sessions Judge,
Bajali / Baksa / Biswanath / Bongaigaon / Charaideo/ Chirang
/ Darrang / Dhemaji / Dibrugarh / Dima Hasao / Golaghat /
Hailakandi / Hojai / Jorhat / Kamrup / Karbi Anglong /
Karimganj / Kokrajhar / Lakhimpur/ Majuli / Morigaon /
Sivasagar / South Salmara/ Tinsukia / Udalguri / West Karbi
Along, Assam.

Dated Guwahati the 27th January, 2023

Ref: Judgement dated 15.12.2022, passed by the Hon'ble Supreme
Court of India in Civil Appeal No. 9322/2022.

Sir / Madam,

I am directed to forward herewith a copy of judgement dated
15.12.2022, passed by the Hon'ble Supreme Court of India in Civil Appeal No.
9322/2022 for your information and necessary compliance..

With warm regards,

Yours faithfully,

End: As stated above.

R. A. Tapadar
27.01.23

REGISTRAR (JUDICIAL)

25/1/23

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(1-83)

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 9322 OF 2022
[ARISING OUT OF SPECIAL LEAVE PETITION (C) NO. 32448 OF 2018]

Gohar Mohammed

...Appellant

Versus

103276

Uttar Pradesh State Road Transport Corporation
& others

...Respondent(s)

J U D G M E N T

J.K. Maheshwari, J.

Certified to be true copy
Certified
Assistant Registrar (Judt)
10-01-2023
Supreme Court of India

Leave granted.

2. The instant appeal has been filed assailing the final order dated 06.09.2018 passed by the High Court of Allahabad in First Appeal from Order No. 3303 of 2018, vide which the appeal preferred by the appellant against the award dated 04.05.2018 passed by the Motor Accident Claims Tribunal (for short 'MACT') in MACP No. 1107 of 2012 has been dismissed. MACT allowed the claim petition and awarded a compensation of Rs. 31,90,000/- (Thirty-one lacs and ninety thousand only)

in favour of respondent Nos. 6, 7 and 8 (legal representatives of deceased and hereinafter referred to as 'claimants') to be paid by respondent No. 5 (**Insurance Company**), with further direction to recover the same from appellant (hereinafter referred as **owner**) who was saddled with liability.

3. Facts briefly put are that, on the date of accident, i.e., 29.07.2012, the deceased was 24 years old and working as Managing Director at DRV Drinks Pvt. Ltd. While he was returning from factory to residence, his car was hit from behind by a bus owned by appellant on the by-pass road near Sanhwali village (U.P.). The deceased sustained severe injuries and died on the way to hospital. FIR was lodged against the driver as well as owner of the offending vehicle and on 19.01.2012, claim petition was filed by claimants before MACT seeking compensation of Rs. 4,19,00,000/- (Four crores and nineteen lacs only) under various heads.

4. The MACT vide order dated 04.05.2018, allowed the claim petition and awarded a total sum of Rs. 31,90,000/- alongwith 7% interest. While computing the loss of dependency, the annual income of the deceased was accepted as Rs. 3,09,660/- after making deduction towards personal

expenses, multiplier of 18 was applied. It was held that the vehicle was not being operated as per the terms of permit and was in violation of terms and conditions of insurance policy, therefore the owner of the offending vehicle was held liable to pay compensation.

5. Appellant filed appeal before the High Court assailing the issue of liability contending, inter alia, no violation of guidelines as such was there and submitted that the offending vehicle was insured with insurance company indemnifying the liability. Appellant further contended that he had Special Temporary Authorization (in short 'permit') to operate the bus on the route for which the fee was paid. The High Court vide impugned order affirmed the findings of MACT and held that the vehicle owner failed to produce the original permit and also could not get the same proved calling the person from the Transport Department, in absence, the Claims Tribunal rightly decided the issue of liability against the owner.

6. Challenging the concurrent findings of the Courts below, the appellant contested the instant appeal largely on the ground that failure to produce the original permit cannot lead to an inference against him, especially when such permit

has been duly issued by Transport Authority and confirmed in the reply under Right to Information Act (for short 'RTI Act').

It was further contended that the appellant had valid permit as he deposited the due fee on the next day after the date of issuance of permit and hence, the finding of Courts below that the appellant did not have a valid permit, as such fastened the liability for payment of compensation is unjust.

7. Per contra, the State as well as Insurance Company mainly relied on the findings recorded by the Courts below to contend that the offending vehicle was not being plied as per the terms and conditions of the permit and also in violation of the terms and conditions of the insurance policy. It has further been contended that the offending vehicle stood withdrawn from State transport services way back in 2009 and was no more under the control of respondent No. 1, hence, the issue of liability has rightly been decided.

8. Having heard learned counsel for the parties and on perusal of the material available on record, it clearly reveals that on the date of accident, the appellant did not have a valid and effective permit to ply the offending vehicle on the route where accident took place. Having extensively gone through

the fact-finding exercise, it is categorically recorded by MACT that the appellant was neither able to produce/prove the original permit nor was able to prove the information received under RTI Act. Even if RTI information is considered by which it is not clear as to when the disputed permit was issued and by whom. The alleged permit was issued on 28.07.2012, i.e., on Saturday and no explanation is on record as to why deposit of fee was asked on the next day i.e. Sunday. Moreover, assuming that permit was valid as per letter of Transport Authority, but it does not of any help to the appellant since the vehicle was being plied on a route different than specified in permit. The appellant has failed to give any explanation to refute the observations made by MACT to ply the vehicle on Roorkee by-pass to Haridwar via Meerut which did not fall within the route of permit issued by Transport Authority. The said findings of fact have been affirmed by the High Court by the impugned order.

9. After going through the record, the concurrent findings of fact do not warrant any interference since they do not outrageously defy the logic as to suffer from the vice of irrationality and neither incur the blame of being perverse. In

view of foregoing discussion, we are of the considered opinion that the arguments raised by appellant are bereft of any merit, hence this appeal is hereby dismissed.

10. During the course of hearing of the appeal, Ms. Rani Chhabra, Mr. Sameer Abhyankar, Ms. Sakshi Kakkar and Mr. Vivek Gupta, learned counsel for the parties have expressed concern regarding delay in disposal of the claims cases in trial court or at appellate stage. Emphasis has been made to the 'Objects and Reasons' of Motor Vehicles Amendment Act, 2019 (for short "M.V. Amendment Act") which is a benevolent legislation brought with an intent to compensate the family of the deceased and the persons suffered with injuries including permanent disability as expeditiously as possible. It is said the mandate of the provisions of the M.V. Amendment Act, Rules and recourse as specified have not been followed by the stakeholders including Claims Tribunals working under subordination of different High Courts.

11. It is urged, the legislation to pay compensation in monetary terms for damages to person or property cannot put the claimant into his original position. *What may be the adequate amount for a wrongful act is an extreme task.* The

payment of compensation in a case of death or for damage to the body in a motor accident claim may be based on arithmetical calculation. How far it is just and reasonable, is a matter of satisfaction of the Court by adopting a uniform approach. While determining compensation, he/she is required to be compensated as he/she cannot sue again, therefore, the determination of compensation of the damages is an extreme task. Therefore in assessing the compensation uniformity and reasonability are required to be followed. In such cases, dispensation of justice may cause social impact and may delay payment of compensation. Therefore, direction to follow the mandate of law at the earliest may be issued.

12. To advert the said issue, the assistance of learned Senior Counsel Mr. S. Nagamuthu, Mr. C.A. Sundaram, Mr. A.N. Venugopala Gowda and learned counsel Mr. A.N. Krishna Swamy was sought as amici curiae including Ms. Garima Prashad, Additional Advocate General for State of U.P. They have rendered their assistance being officers of the Court in true sense and spirit which we acknowledge.

13. Learned counsel for the parties and learned amici curiae have mainly advanced their arguments with respect to M.V. Amendment Act in particular Chapter XI thereof, inter alia, emphasizing the importance of Sections 146, 149, 159, 160, 161, 164, 166 of the M.V. Amendment Act. It is urged that the Motor Vehicles (Fifth Amendment), Rules, 2022 (for short "M.V. Amendment Rules") have also been brought into force w.e.f. 1.4.2022 after the M.V. Amendment Act. Prior to the amendment of Act and Rules, as per the directions issued by the Delhi High Court and this Court, the standard operating procedure formulated and circulated to all the High Courts was observed by choice, and the outcome of its implementation was negligible. But, now by amendment, a statutory regime is prescribed which is not being followed in most of the High Courts and by subordinate courts though it is required to be followed strictly. However, appropriate directions are required to implement the regime of M.V. Amendment Act and Rules. In alternative, the hurdle in implementation of the directions by joining the stake-holders may be directed as deemed fit. In support of these contentions, recourse as taken by the Delhi High Court as

well as this Court in the case of '*Rajesh Tyagi & Ors. Vs. Jaibir Singh & Ors., 2009 SCC Online Del 4306*' (for short "*Rajesh Tyagi I*"), '*Jai Prakash Vs. National Insurance Co. Ltd. & Ors., (2010) 2 SCC 607*' (for short "*Jai Prakash I*"), '*Rajesh Tyagi & Ors. Vs. Jaibir Singh & Ors., 2014 SCC OnLine Del 7626*' (for short "*Rajesh Tyagi II*"), '*Rajesh Tyagi & Ors. Vs. Jaibir Singh & Ors., 2017 SCC Online Del 4306*' (for short "*Rajesh Tyagi III*") have been relied upon, in addition to refer the provisions of M.V. amendment Act and Rules.

14. After having heard learned counsels, we deem it necessary to trace the history as to how the M.V. Amendment Act and M.V. Amendment Rules have been brought into force to set up new regime to deal with the claim cases since the time of accident.

Evolution of Motor Vehicles Act vis-à-vis 2019 Amendment -

15. In this regard, the distinguished attempt to address the ensuing concerns was made by the Delhi High Court in *Rajesh Tyagi I* (supra). In the said case, the Court while dealing with

the question of effective implementation of Delhi Motor Accident Claims Tribunal Rules, 2008 and Section 158(6) of M.V. Act (pre-2019 amendment) directed the Station House Officers to submit 'accident information report' to MACT within 30 days of accident and said report be treated as claim petition by MACT for the purpose of inquiry. Suggestions were invited and later a committee was constituted to find out a mechanism for time bound settlement of motor accident claim cases. After deliberations from all stakeholders, the committee submitted a draft of 'agreed procedure' and consequently vide order dated 16.12.2009, the Delhi High Court formulated "Claims Tribunal Agreed Procedure" (for short '**CTAP**') for time bound settlement of motor accident claims within 90 to 120 days and directed its implementation only for trial as pilot project for a period of six months from 15.01.2010 to 14.07.2010. The **CTAP** in addition to Section 158(6), in a nutshell provided as follows -

1. *Mandatory intimation of factum of the accident by Investigating Officer to the Claims Tribunal within 48 hours of the accident and if information about insurance company is available by that time, then intimation to the concerned insurance company by email;*

2. Appointment of designated officer by insurance company for each case immediately upon receipt of intimation;
3. Collection of relevant evidence by Investigating Officer relating to accident as well as computation of compensation (photographs, proof of age, proof of income of deceased etc.);
4. Detailed Accident Report (DAR) to be filed by Investigating Officer before Claims tribunal within 30 days of the accident and a copy thereof to the concerned insurance company;
5. Copy of DAR alongwith documents to be submitted to Legal Services Authority;
6. Discretion of the Claims Tribunal on application made for extension of time in cases where the Investigating Officer is unable to complete the investigation within 30 days for reasons beyond his control;
7. Production of driver, owner, claimant and eye-witnesses before Claims Tribunal alongwith DAR;
8. Furnishing of report by concerned Registration Authority in Form-D of Delhi Motor Accident Claims Tribunal Rules, 2008 to the Police and Claims Tribunal within 15 days from the receipt of request;
9. Examination of DAR by the Claims Tribunal as to whether the DAR is complete in all respects or not;
10. Treatment of DAR filed by Investigating Officer as claim petition under Section 166(4) of Motor Vehicles Act (pre 2019 Amendment);

11. Grant of 30 days' time to Insurance Company by Claims Tribunal to examine the DAR and to take a decision as to quantum of compensation;
12. Assessment of compensation by designated officer accompanied with reasoned order which shall constitute a legal offer to the claimants and in case, when such offer is acceptable to the claimant, Claims Tribunal to pass a consent award with a further 30 days' time for the insurance company to deposit the amount;
13. Time period of not more than 30 days' to be granted by Claims Tribunal to claimant to respond to offer made by insurance company;
14. Conduct of enquiry by Claims Tribunal under Section 168 and 169 (pre 2019 Amendment) and passing of award within 30 days' in case of non-acceptance of offer by claimant given by insurance company;
15. Computation of compensation payable to the legal representatives of deceased victims to be done by Claims Tribunal in accordance with the principles laid down by Hon. Supreme Court in 'Sarla Verma Vs. DTC, 2009 (6) SCALE 129';
16. Minimum wage to be considered by Claims Tribunal in cases where legal representatives of the deceased do not have documentary evidence as to proof of income of deceased;
17. Consideration of principles laid down by Delhi High Court in 'National Insurance Co. Ltd. Vs. Farzana, MAC. APP.13/2007' in case of death of a child.

16. The High Court also directed the Delhi Police to prepare "Accident Investigation Manual" for implementation of the **CTAP**. In the output, it revolutionized the Motor Accident Compensation Scheme due to which the claimant(s) received the compensation within 120 days of the accident.

17. Another notable effort was made by this Court in '*Jai Prakash I*' (supra), wherein this Court identified majorly four issues i.e., *firstly*, grant of compensation in cases of 'hit and run where the vehicles remain unidentified which do not have insurance cover having third party insurance but carrying persons not covered by the insurance'; *secondly*, 'widespread practice of using goods vehicles for passenger traffic'; *thirdly*, 'procedural delays in adjudication of claims by Motor Accident Claims Tribunal and following hardships to the victims; and *fourthly*, 'the full amount of compensation not reaching the victims, particularly to those who are uneducated'. Having regard to the nature of subject matter and considering the suggestions made by amicus, vide order dated 17.12.2009 guidelines/directions were issued by this Court to be carried

out in three stages, the same are reproduced in brief as under:-

Directions to Police Authorities

1. Director General of Police for each State is directed to instruct all Police Stations in the State to comply with provisions of Section 158(6) of Motor Vehicles Act (pre 2019 Amendment) and submit Accident Information Report in Form no. 54 accompanied with copies of First Information Report, site sketch/mahazar/photographs, insurance policy, etc. to the jurisdictional MACT and insurance company within 30 days of registration of FIR;

Directions to Claims Tribunals

1. Registrar General of each High Court is directed to instruct all Claims Tribunal in his State to register the reports of accidents received under Section 158(6) of the Act and deal with them without waiting for filing of claim petition. Further, Registrar General shall ensure that necessary registers, forms and other support is extended to the Tribunal;
2. Tribunal shall maintain an Institution Register for recording Accident Information Reports received from Station House Officers and register them as miscellaneous petitions. Tribunal shall further fix a date of preliminary hearing and after appearance of claimants, it shall be converted into claim petition;
3. Tribunal shall satisfy itself that the Accident Information Report relates to a real accident and is not a result of any collusion or fabrication;

4. In case of non-dispute of liability by insurance company, Tribunal shall make an endeavor to determine the compensation amount by summary enquiry or refer the matter to Lok Adalat for settlement and dispose-off the claim petition itself within a time frame not exceeding six months from the date of registration of claim petition;
5. Tribunal shall direct insurance company to deposit the admitted amount or the amount determined, with Claims Tribunal within 30 days of determination;

Suggestions for Insurance Companies

1. In case of death and non-dispute of liability by insurance company, endeavor shall be made by insurance company to pay compensation as per standard formula to the family (legal representatives) of deceased without waiting for decision of Tribunal or settlement by Lok Adalat;
2. In case of injuries and non-dispute of liability by insurance company, the insurer should offer treatment at its cost to the injured without waiting for award of the Tribunal;
3. To protect and preserve the compensation amount awarded to families, special schemes in consultation with Nationalized Banks and Life Insurance Corporation of India may be considered by the insurance companies under which the compensation is kept in fixed deposit for an appropriate period and interest is paid by Bank on monthly basis;
4. Insurance companies may also consider offering annuity instead of lump sum compensation and prepare an annuity scheme with involvement of Life Insurance Corporation of India.

Suggestions for Legislative/Executive intervention

1. Formulation of more comprehensive scheme ensuring payment of compensation to all accident victims of road accidents;
2. Introduction of hybrid model which involves collection of fixed lifetime premium in regard to each vehicle plus imposition of a road accident cess which may provide more satisfactory solution in vast country like India;
3. Define 'third party' to cover any accident victim other than the owner and increase the premia, if necessary;
4. Consider rationalization of Second Schedule to the Act and increase the quantum of compensation payable under Section 161 of the Act in case of hit and run motor accidents;
5. Secure compensation to the victims of road accidents involving uninsured vehicles by directing the owner of vehicle to offer security or deposit an amount adequate to satisfy the award as a condition precedent for release of seized vehicle.

18. With the advent of time, the suggestions and guidelines issued by Courts were adopted and implemented by the authorities. Progress reports were filed by stakeholders at regular intervals for consideration of court. Similarly, in furtherance of the directions given by Delhi High Court in *Rajesh Tyagi I (supra)*, the CTAP was implemented in the territory of Delhi and certain lacunae were identified in its

practical implementation. Meetings were convened involving all the stakeholders and further suggestions were presented before Court for incorporation in order to make the guidelines more efficient. The suggestions were duly considered, and Delhi High Court vide order dated 12.12.2014 in '**Rajesh Tyagi II**' (supra) incorporated the suggestions and appended the modified Claims Tribunal Agreed Procedure to be implemented with effect from 01.02.2015 for a period of six months subject to review after expiry of three months. Following is the gist of modifications as carried out and approved by Delhi High Court :-

1. *Intimation of the accident by the Investigating Officer has to be in Form I of the modified procedure (Clause 2);*
2. *List of documents to be collected by Investigating Officer is given under Clause 3;*
3. *Detailed Accident Report (DAR) to be filed by Investigating Officer shall be in Form II of the modified procedure;*
4. *Duty of Investigating Officer to seek directions from Claims Tribunal in Part X of Form II of DAR, in event of failure of driver/claimant/owner/ insurance company to disclose relevant information and produce documents before Investigating Officer within 15 days;*

5. Duty of insurance companies to get DAR verified by their surveyor within 20 days of the receipt of copy of DAR (Clause 20);
 6. Report of the Designated Officer of insurance company shall be in Form III of modified procedure (Clause 21);
 7. Duty of Claims Tribunal to elicit the truth and satisfy itself that the statements made in DAR are true before passing the award (Clause 24);
 8. Duty of the Claims Tribunal to examine the claimants before passing the award to ascertain their financial condition, proof of residence etc. (Clause 26);
 9. Manner of deposit of award amount to be specified by Claims Tribunal (Clause 27);
 10. Claims Tribunal to pass an appropriate order for protection of award amount (Clause 28);
 11. Claims Tribunal shall deal with the compliance of provisions in award (Clause 29);
 12. Claims Tribunal shall fix a date for reporting compliance (Clause 30);
 13. Copy of DAR as well as award to be sent to concerned Magistrate (Clause 31);
 14. Record of award passed by Claims Tribunal shall be maintained in Form V (Clause 33);
19. The aforesaid modified procedure was given a seal of affirmation by this Court vide order dated 13.05.2016 passed in **Jai Prakash I (supra)**, while reviewing the progress made with respect to legislative changes that were suggested by

previous order dated 17.12.2009. The modified procedure approved by Delhi High Court was brought on record and after perusal, this Court observed as follows:

"We have also perused the procedure, which has been placed before us as Annexure R5 with the response which, in our view, appears to be a comprehensive one and that we can issue further directions to the Registrar General of the Delhi High Court to ensure that procedure is strictly followed insofar as Delhi is concerned and also circulate the said procedure to all the other High Courts and the Registrar General of all the other High Courts are directed to ensure that the said procedure is implemented through the Motor Accident Claims Tribunal in coordination with the Legal Service Authorities as well as the Director General of Police of the States concerned."

Subsequently, this Court vide order dated 06.11.2017, modified its earlier order dated 13.05.2016 and directed all States to implement the '**Modified CTAP**' while observing as follows –

"The order dated 13.05.2016 will therefore stand modified to the extent that Justice Midha has himself modified his earlier order on 12th December, 2014. The Registry will send a copy of this order as well as the order passed by Justice Midha on 12th December, 2014 to the Registrar General of each High Court for necessary information and compliance. List the matter on 23rd January, 2018."

20. In pursuance of the implementation of the guidelines, the proceedings in *Rajesh Tyagi I (supra)* continued before Delhi High Court and vide order dated 07.12.2018 (for short

'Rajesh Tyagi III'), the Delhi High Court incorporated few more directions in the modified **CTAP**. However, effective implementation of the modified procedure remained a persistent roadblock at all levels, especially in terms of the directions given by this Court vide order dated 13.05.2016 and 06.11.2017 in *Jai Prakash I (supra)*. The said concern again came for consideration before this Court in '*M.R. Krishna Murthi Vs. The New India Assurance Co. Ltd., 2019 SCC OnLine SC 315*', wherein, vide order dated 05.03.2019, this Court categorically noted that there was no effective implementation of modified **CTAP** by Claim Tribunals at all India level. Taking note of the aforesaid, this Court directed National Legal Services Authority to take up the matter and monitor the same in co-ordination and co-operation with various High Courts. Further, directions were also given to State Judicial Academies to sensitize the Presiding Officers of Claim Tribunals, senior police officials and insurance companies for implementation of modified **CTAP**. Lastly, this Court also directed the Claim Tribunals pan India to implement 'Motor Accident Claims Annuity Deposit Scheme' (for short '**MACAD Scheme**') as formulated by Delhi High Court

in *Rajesh Tyagi III (supra)*. The relevant paragraphs are being reproduced below for ready reference --

- “32. Notwithstanding the aforesaid ADR methods, adjudicatory process before the MACTs is indispensable. There cannot be a guarantee that 100% cases would be settled through mediation or Lok Adalat. Therefore, there is a dire need for deciding these cases without delays and within reasonable period. The Delhi High Court has given few judgments providing for mechanism to speed up the disposal of such cases and to ensure that schemes are settled within a period of 90/120 days from the date of accident. In nutshell, these directions include that on the occurrence of accident, the police which comes into the picture in the first instance, should complete the investigation and along with filing of FIR before the concerned Court of Metropolitan Magistrate, copies are sent to MACT as well as Insurance Company also. Insurance Company is supposed to look into the same to find out as to whether the claim is payable and within 30 days it should respond to MACT and once all these documents are before the MACT in the form of evidence etc., as well, it would enable the MACT to decide the case within 30 days.....
33. Vide order dated 06th November, 2017 in Jai Prakash Case, this Court modified its order dated 13th May, 2016 and directed all States to implement the Modified Claims Tribunal Agreed Procedure formulated by Delhi High Court on 12th December, 2014. The copy of the Modified Claims Tribunal Agreed Procedure was directed to be circulated to the Registrar General of each High Court necessary for compliance.....
34. This needs to be followed at all India level. NALSA should take up and monitor the same as well in coordination and cooperation with various High Courts to facilitate the same.

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37. Thus, direction for implementation of the 'Claims Tribunal Agreed Procedure' which is substituted by modified procedure, as noted above, are already there. However, we find that there is no proper implementation thereof by the Claims Tribunals. We, thus, direct that there should be programs (sic) from time to time, in all State Judicial Academies to sensitize the presiding officers of the Claims Tribunals, senior police officers of the State Police as well as Insurance Company for the implementation of the said Procedure.

21. Based on the guidelines issued by this Court and Delhi High Court, recommendations were made by Group of Transport Ministers (GoM) of States alongwith other stakeholders. The Central Government with an objective to 'improve road safety, facilitate citizens in their dealings with transport departments, strengthen rural transport, public transport, last mile connectivity through automation, computerization and online services' introduced '**The Motor Vehicles (Amendment) Bill, 2019**'. The aforesaid Bill was passed by both the Houses as '**The Motor Vehicles Act, 1988 (59 of 1988)**'.

22. Vide new Amendment, '**Chapter X**' of the preceding Act was omitted. '**Chapter XI - Insurance of Motor Vehicles against third party risks**' and **Chapter XII - Claims Tribunals** were amended as per the Motor Vehicle

Amendment Act, 2019 which came into force w.e.f. 1.4.2022. For the purpose of this case, we are mainly concerned with Chapters XI and XII of the Amendment Act and the Rules to emphasize the necessity of insurance, duties specified to the police officer, registering authority, insurance companies and Clam Tribunals to determine compensation.

Necessity of Insurance of the vehicle:

23. By virtue of an amendment made in Section 146, insurance of motor vehicle is made necessary. The said Section is relevant, therefore reproduced as under:

“ 146: Necessity for insurance against third party risk. —

(1) No person shall use, except as a passenger, or cause or allow any other person to use, a motor vehicle in a public place, unless there is in force in relation to the use of the vehicle by that person or that other person, as the case may be, a policy of insurance with the requirements of this Chapter.

[Provided that in the case of a vehicle carrying, or meant to carry, dangerous or hazardous goods, there shall also be a policy of insurance under the Public Liability Insurance Act, 1991 (6 of 1991).]

Explanation. —A person driving a motor vehicle merely as a paid employee, while there is in force in relation to the use of the vehicle no such policy as is required by this sub-section, shall not be deemed to act in contravention of the sub-section unless he knows or has reason to believe that there is no such policy in force.

(2) Sub-section (1) shall not apply to any vehicle owned by the Central Government or a State Government and used for Government purposes unconnected with any commercial enterprise.

(3) The appropriate Government may, by order, exempt from the operation of sub-section (1) any vehicle owned by any of the following authorities, namely:—

- (a) the Central Government or a State Government, if the vehicle is used for Government purposes connected with any commercial enterprise;
- (b) any local authority;
- (c) any State transport undertaking.

Provided that no such order shall be made in relation to any such authority unless a fund has been established and is maintained by that authority in accordance with the rules made in that behalf under this Act for meeting any liability arising out of the use of any vehicle of that authority which that authority or any person in its employment may incur to third parties.

Explanation. —For the purposes of this sub-section, "appropriate Government" means the Central Government or a State Government, as the case may be, and—

- (i) in relation to any corporation or company owned by the Central Government or any State Government, means the Central Government or that State Government;
- (ii) in relation to any corporation or company owned by the Central Government and one or more State Governments, means the Central Government;
- (iii) in relation to any other State transport undertaking or any local authority, means that Government which has control over that undertaking or authority.

24. On perusing the M.V. Amendment Act, in particular Section 146 of Chapter XI, it is clear that a motor vehicle cannot ply on public place nor is allowed to be used at the public place unless insured. The exemption from insurance has been prescribed to the vehicles owned by the Central Government, State Government, local authority or any State Transport Undertaking, if the vehicle is used for the purpose