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GENERAL INSURANCE COUNCIL AND ORS.

v.

STATE OF ANDHRA PRADESH AND ORS.

JULY 9, 2007

B

[DR. ARIJIT PASAYAT AND P.P. NAOLEKAR, JJ.]

Motor Vehicles Act, 1988—s. 158 (6)—Compliance of the provision—Held: Since the compliance of the provision is mandatory, it should be followed—Direction to the State Governments and Union Territories to direct the concerned police officials to comply with the requirement of the provision—On non-compliance of the direction, action to be taken against erring officials—Central Motor Vehicles Rules, 1989—Rule 150 and Form 54.

C

Words and Phrases—'As soon as'—Meaning of the expression—In the context of s. 158 (6) of Motor Vehicles Act, 1988.

D

The Writ Petition was filed before this Court seeking direction to State Governments and Union Territories to ensure that the mandate of Section 158 (6) of Motor Vehicles Act, 1988 is complied with without exception.

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Disposing of the Writ Petition, the Court

HELD: 1. The language used in sub-section (6) of Section 158 of Motor Vehicles Act, 1988 mandates the police officer to forward a copy of the report to the Claims Tribunal having jurisdiction and to the concerned insurance company "as soon as any information regarding any accident involving death or bodily injury is recorded or a report under Section 158 is completed by the police officer." Use of the expression 'as soon as' implies that there has to be promptitude in action. To do a thing 'as soon as possible' means to do it within a reasonable time, with an understanding to do it within the shortest possible time. 'As and when' and 'as soon as' are almost synonymous. Whenever these expressions are used in respect of time and place, they denote contemporaneous notion. 'As soon as' and 'forthwith' both are to be normally understood as allowing reasonable time, but latter is more peremptory than the former. But urgency is the hallmark of both expressions. Expression 'as soon as' may be stretched to mean 'as soon as' practicable. It has to be

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forwarded with promptitude.

[Paras 7 and 8] [196-G; 197-A, B]

King's Old County Ltd. v. Liquid Carbonic Can. Corporation Ltd. (1942)
2 WWR 603, referred to.

2. If action in terms of Section 158 (6) is taken, it will rule out filing of false claim petitions and the job of the Claims Tribunals will become easier.

[Para 6] [196-A]

3. Since there is a mandatory requirement to act in the manner provided in Section 158(6), there is no justifiable reason as to why the requirement is not being followed. It is, therefore, directed that all the State Governments and the Union Territories shall instruct, if not already done, all concerned police officers about the need to comply with the requirement of Section 158(6) keeping in view the requirement indicated in Rule 150 and in Form 54. Periodical checking shall be done by the Inspector General of Police concerned to ensure that the requirements are being complied with. In case there is non-compliance, appropriate action shall be taken against the erring officials. The Department of Transport and Highway shall make periodical verification to ensure that action is being taken and in case of any deviation immediately bring the same to the notice of the concerned State Government/Union Territories so that necessary action can be taken against the concerned officials. [Paras 9 and 10] [197-C, D, E]

CIVIL ORIGINAL JURISDICTION : Writ Petition (C) No. 282 of 2007.

G.E. Vahanvati, SG. Vishnu Mehra, Sakshi Mittal and Pramod Dayal for the Petitioners.

Satya Mitra Garg, V.G. Prgasam, Manjit Singh, T.V. George, Harikesh Singh, Bindu Saxena, Shailendra Swarup, S. Wasim, A. Qadri, D.S. Mahra, MPS Tomar, D.P. Vinay Kumar and D. Bharathi Reddy for the Respondents.

The Judgment of the Court was delivered by

DR. ARIJIT PASAYAT, J. 1. Prayer in this writ petition is for direction to the various States Governments and the Union Territories to ensure that the mandate of Section 158 (6) of the Motor Vehicles Act, 1988 (in short the 'Act') is complied with without exception. It is stated that Section 158 (6) of the Act casts a statutory obligation on the concerned police officers forward

A to Claims Tribunal having jurisdiction about the death or bodily injury any person so recorded in the police station. Further mandate is contained in the provision about the sending copy thereof to the concerned insurer and the owner of the offending vehicle. The owner of the vehicle is obligated to forward the report to the Claims Tribunal and the insurer. The Union of India has expressed its concern about the apparent non-compliance with the requirements of the provision by letter dated 6.6.2006 of the Government of India, Ministry of Shipping Road Transport and Highways, Department of Road Transport and Highways issued circular to transport Secretaries and Commissioners of all States and Union Territories IG (Traffic) police and all the States and Union Territories highlighting non-compliance with the statutory requirements. No action has been taken to comply with the requirements of Section 158 (6).

2. There is no dispute that there is statutory requirement to comply with the requirement and actual implementation is very disheartening.

D 3. Section 158 (6) of the Act reads as under:

E “158 (6): As soon as any information regarding any accident involving death or bodily injury to any person is recorded or report under this section is completed by a 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 information or, as the case may be, on completion of such report to the Claims Tribunal having jurisdiction and a copy thereof to the concerned insurer, and where a copy is made available to the owner, he shall also within thirty days of receipt of such report, forward the same to such Claims Tribunal and Insurer.”

F 4. Rule 150 of the Central Motor Vehicles Rules, 1989 (in short the ‘Rules’) deals with the matter.

5. Form 54 of the Rules provides the format in which the information is to be given. The Rule and the Form read as follows:

G 150. *Furnishing of copies of reports to Claims Tribunal.*—

(1) The police report referred to in sub-section (6) of section 158 shall be in Form 54.

H (2) A registering authority or a police officer who is required to furnish the required information to the person eligible to claim

compensation under section 160, shall furnish the information in Form A 54, within seven days from the date of receipt of the request and on payment of a fee of rupees ten.”

FORM 54

[Rule 150(1) and (2)]

ACCIDENT INFORMATION REPORT

1. Name of the Police station A
2. CR No/Traffic accident report
3. Date C
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 license particulars: D
 - (a) Name and address of the driver
 - (b) Driving licence number and date of expiry
 - (c) Address of the lissuing authority
 - (d) Badge No. In case of public service vehicle
8. Name and address of the owner of the E
vehicle at the time of the accident
9. Name and address of the insurance company' F
with whom the vehicle was insured and the
particulars of he Divisional Officer of the
said insurance company
10. Number of insurance policy/Insurance certificate G
and the date of valditiy of the Insurance policy/insurance
company.
11. Registration particulars of the vehicle (class of vehicles)
 - (a) Registration No.
 - (b) Engine No.
 - (c) Chassis No. H

- A 12. Routine permit particulars
13. Action taken, if any, and the result thereof

6. There is substance in the plea of Mr. G.N. Vahanvati, learned Solicitor General for the petitioner that if action in terms of Section 158 (6) is taken, it will rule out filing of false claim petitions and the job of the Claims Tribunals will become easier. It is stated by learned counsel that a large number of cases alleging sufficient injuries are being filed long after the accidents and this is adding to the pendency of the claims petitions. If action in terms of Section 158 (6) is taken, it will reduce considerably the filing of false claims. It has been highlighted in the writ petition as follows:

C “26. Some salient facts which have emerged from a detailed study on a macro level which are relevant for the purposes of the instant writ Petition may be noticed:

D 26.1 As on date there are about 1.5 million cases pending in different Tribunals/High Courts/Supreme Court;

26.2 About 4 lakh new cases involving injury/death under the Motor Vehicles Act, 1988 are reported every year;

26.3 Claims under the Motor Vehicles Act, 1988 are reported after about 7 months from the date of accident;

E 26.4 Delay in reporting the claim promotes exaggeration and frauds;

26.5 Delay in reporting the claim makes investigation and fact verification extremely difficult;

26.6 Adjudication of cases take about 3 to 5 years.

F 26.7 Petitioners Insurance Companies suffer on account of higher claim cost on account of delay in the adjudication of the claim petitions.

G 26.8 Strict implementation of Section 158(6) shall ensure speedier reporting to Insurance companies which in turn will ensure expeditious and efficient settlement of claims.”

H 7. The language used in sub-section (6) of Section 158 mandates the police officer to forward a copy of the report to the Claims Tribunal having jurisdiction and to the concerned insurance company “as soon as any information regarding any accident involving death or bodily injury is recorded or a report under Section 158 is completed by the police officer.”

8. Use of the expression 'as soon as' implies that there has to be promptitude in action. To do a thing 'as soon as possible' means to do it within a reasonable time, with an understanding to do it within the shortest possible time. [Per Dysant, J. in *King's Old County Ltd. v. Liquid Carbonic Can. Corporation Ltd.* (1942) 2 WWR 603]. 'As and when' and 'as soon as' are almost synonymous. Whenever these expressions are used in respect of time and place, they denote contemporaneous notion. 'As soon as' and 'forthwith' both are to be normally understood as allowing reasonable time, but latter is more peremptory than the former. But urgency is the hallmark of both expressions. Expression 'as soon as' may be stretched to mean 'as soon as' practicable. It has to be forwarded with promptitude.

9. Since there is a mandatory requirement to act in the manner provided in Section 158(6) there is no justifiable reason as to why the requirement is not being followed.

10. It is, therefore, directed that all the State Governments and the Union Territories shall instruct, if not already done, all concerned police officers about the need to comply with the requirement of Section 158(6) keeping in view the requirement indicated in Rule 150 and in Form 54. Periodical checking shall be done by the Inspector General of Police concerned to ensure that the requirements are being complied with. In case there is non-compliance, appropriate action shall be taken against the erring officials. The Department of Transport and Highway shall make periodical verification to ensure that action is being taken and in case of any deviation immediately bring the same to the notice of the concerned State Government/Union Territories so that necessary action can be taken against the concerned officials.

11. The writ petition is accordingly disposed of.

K.K.T.

Writ petition disposed of.