

Date 21-6-2023

Diary No. 869

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HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171001.

No. HHC/VIG/STAT/Misc. Instructions/93-V- 16595
Dated Shimla, the 17th June, 2023.

From

The Registrar General.
High Court of Himachal Pradesh
Shimla-171001.

To

All the District/ Additional District & Sessions Judges,
posted in Civil and Sessions Divisions,
in Himachal Pradesh.

Subject: - Directions passed in Civil Appeal No. 9322/2022 titled
Gohar Mohammad versus Uttar Pradesh State Road
Transport Corporation & Ors; MA No. 825/2023 in Civil
Appeal No. 9322/2022; Instructions thereof.

Sir/ Madam,

The Hon'ble Supreme Court has issued certain directions
in Gohar Mohammed Vs Uttar Pradesh State Road Transport
Corporation, (2023) 4 SCC 381, to be followed by various authorities,
including MAC Tribunals, which are detailed in para no. 62 of the
judgment (supra), to carry out the purpose of Motor Vehicles Act and
the Rules made thereunder. The relevant directions of the Hon'ble
Supreme Court are being circulated, for strict compliance by all the
Courts/ Tribunals in letter and spirit, which are as follows: -

- (i) On receiving the intimation regarding road accident by use of
a motor vehicle at public place, the SHO concerned shall take
steps as per Section 159 of the M.V. Amendment Act.
- (ii) After registering the FIR, Investigating Officer shall take
recourse as specified in the M.V. Amendment Rules, 2022 and
submit the FAR within 48 hours to the Claims Tribunal. The
IAR and DAR shall be filed before the Claims Tribunal within
the time limit subject to compliance of the provisions of the
Rules.
- (iii) The registering officer is duty bound to verify the registration
of the vehicle, driving licence, fitness of vehicle, permit and

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other ancillary issues and submit the report in coordination to the police officer before the Claims Tribunal.

- (iv) The flow chart and all other documents, as specified in the Rules, shall either be in vernacular language or in English language, as the case may be and shall be supplied as per Rules. The Investigating Officer shall inform the victim(s)/legal representative(s), driver(s), owner(s), insurance companies and other stakeholders with respect to the action taken following the M.V. Amendment Rules and shall take steps to produce the witnesses on the date, so fixed by the Tribunal.
- (v) For the purpose to carry out the direction No. (ii), distribution of police stations attaching them with the Claim Tribunals is required. Therefore, distribution memo attaching the police stations to the Claim Tribunals shall be issued by the Registrar General of the High Courts from time to time, if not already issued to ensure the compliance of the Rules.
- (vi) In view of the M.V. Amendment Act and Rules, as discussed hereinabove, the role of the Investigating Officer is very important. He is required to comply with the provisions of the Rules within the time limit, as prescribed therein. Therefore, for effective implementation of the M.V. Amendment Act and the Rules framed thereunder, the specified trained police personnel are required to be deputed to deal with the motor accident claim cases. Therefore, we direct that the Chief Secretary/Director General of Police in each and every State/Union Territory shall develop a specialized unit in every police station or at town level and post the trained police personnel to ensure the compliance of the provisions of the M.V. Amendment Act and the Rules, within a period of three months from the date of this order.
- (vii) On receiving FAR from the police station, the Claims Tribunal shall register such FAR as Miscellaneous Application. On filing the IAR and DAR by the Investigating Officer in

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connection with the said FAR, it shall be attached with the same Miscellaneous Application. The Claims Tribunal shall pass appropriate orders in the said application to carry out the purpose of Section 149 of the M.V. Amendment Act and the Rules, as discussed above.

- (viii) The Claim Tribunals are directed to satisfy themselves with the offer of the Designated Officer of the insurance company with an intent to award just and reasonable compensation. After recording such satisfaction, the settlement be recorded under Section 149(2) of the M.V. Amendment Act, subject to consent by the claimant(s). If the claimant(s) is not ready to accept the same, the date be fixed for hearing and affording an opportunity to produce the documents and other evidence seeking enhancement, the petition be decided. In the said event, the said enquiry shall be limited only to the extent of the enhancement of compensation, shifting onus on the claimant(s).
- (ix) The General Insurance Council and all insurance companies are directed to issue appropriate directions to follow the mandate of Section 149 of the M.V. Amendment Act and the amended Rules. The appointment of the Nodal Officer prescribed in Rule 24 and the Designated Officer prescribed in Rule 23 shall be immediately notified and modified orders be also notified time to time to all the police stations/stakeholders.
- (x) If the claimant(s) files an application under Section 164 or 166 of the M.V. Amendment Act, on receiving the information, the Miscellaneous Application registered under Section 149 shall be sent to the Claims Tribunal where the application under Section 164 or 166 is pending immediately by the Claims Tribunal.
- (xi) In case the claimant(s) or legal representative(s) of the deceased have filed separate claim petition(s) in the territorial

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jurisdiction of different High Courts, in the said situation, the first claim petition filed by the claimant(s)/legal representative(s) shall be maintained by the said Claims Tribunal and the subsequent claim petition(s) shall stand transferred to the Claims Tribunal where the first claim petition was filed and pending. It is made clear here that the claimant(s) are not required to apply before this Court seeking transfer of other claim petition(s) though filed in the territorial jurisdiction of different High Courts. The Registrar Generals of the High Courts shall take appropriate steps and pass appropriate order in this regard in furtherance to the directions of this Court.

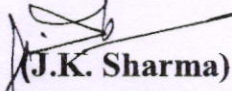
- (xii) If the claimant(s) take recourse under Section 164 or 166 of the M.V. Amendment Act, as the case may be, he/they are directed to join Nodal Officer/Designated Officer of the insurance company as respondents in the claim petition as proper party of the place of accident where the FIR has been registered by the police station. Those officers may facilitate the Claims Tribunal specifying the recourse as taken under Section 149 of the M.V. Amendment Act.
- (xiii) Registrar General of the High Courts, States Legal Services Authority and State Judicial Academies are requested to sensitize all stakeholders as early as possible with respect to the provisions of Chapters XI and XII of the M.V. Amendment Act and the M.V. Amendment Rules, 2022 and to ensure the mandate of law.
- (xiv) For compliance of mandate of Rule 30 of the M.V. Amendment Rules, 2022, it is directed that on disputing the liability by the insurance company, the Claims Tribunal shall record the evidence through Local Commissioner and the fee and expenses of such Local Commissioner shall be borne by the insurance company.
- (xv) The State Authorities shall take appropriate steps to develop a joint web portal/platform to coordinate and facilitate the

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stakeholders for the purpose to carry out the provisions of M.V. Amendment Act and the Rules in coordination with any technical agency and be notified to public at large”.

Kindly acknowledge the receipt.

Yours faithfully,


(J.K. Sharma)

Registrar(Vigilance)

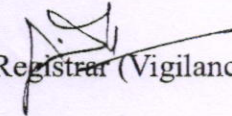
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Endst. No. HHC/VIG/STAT/ Misc. Instructions/93-V-

Dated: 17.06.2023.

Copy forwarded for information to: -

1. The Principal Private Secretary to Hon'ble the Chief Justice.
2. All the Secretaries to the Hon'ble Judges.
3. The Chief Secretary to the Government of Himachal Pradesh, for necessary action.
4. The Director General of Police, Nigam Vihar, Shimla-171002, for necessary action.
5. The Member Secretary, H.P. State Legal Services Authority, Block No. 22, SDA complex Kasumpti, Shimla-171009.
- ✓ 6. The Director, H.P. Judicial Academy, 16 Mile, Shimla-171014.
7. The Deputy Registrar (Rules) w.r.t. U.O. No. HHC/Rules/HSC/2023-15011 dated 01.06.2023.
8. The Section Officer (Vigilance).
9. The Technical Director NIC H.P. High Court Shimla with a request to upload the same on the High Court Website.


Registrar (Vigilance)