

21.09.2020

Perused the report of incidence sent by the Police Station Moth.

Criminal negligence is when a person does an act which is in regard to the obvious risk to the safety of human life whereas Civil negligence is negligence where a person omits to take ordinary care in a particular situation which is also known as due diligence.

It may be a matter of inquiry/investigation that what should be the level of caution of the driver and conductor while passing the bus in very narrow lane? Did the driver drive the bus diligently and keep an eye on the back view mirror, and did the conductor warn passengers not to take out the body parts when the bus was going through the narrow lane, while both the driver and the conductor knew that village laborers were traveling in the bus? It is not so easy to say that deceased was at fault totally. CCTV footage of toll plaza and photo taken from inside of the bus show that the bus proved guillotine. Postmortem report states that head severed from torso.

It is up to CJM and SSP whether or not they look into any angle of criminal negligence, but in my view the report of incidence sent by the concerned police station should be registered as a claim petition under fault liability in light of section 166 (6) of M V Act and the ruling [M. R. Krishna Murthi vs. The New India Assurance Co. Ltd. and Ors. \(05.03.2019 – SC\) : MANU/SC/0321/2019](#) in Hon'ble Apex Court has held—

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.

SO of concerned police station is directed to send the report of incidence and my observation to the CJM and SSP forthwith. A copy of the same shall also be sent forthwith by the concerned police station to Insurance Company of the bus so that Insurance Company may be able to arrive at any agreeable compensation under ADR within 30 days.

Put up on 02.11.2020

Presiding Officer
Motor Accident Claim Tribunal
Jhansi