

## Motor Accident Claim Tribunal Sector

S. NO.	LINK	FACT OF THE CASES	CITATION	FORUM	CASE NO.	DATE OF JUDGEMENT	JUDGEMENT WITH THEME
1.	<a href="http://164.100.72.12/ncdrcprep/judgement/00140509101854394RP284312.htm">http://164.100.72.12/ncdrcprep/judgement/00140509101854394RP284312.htm</a>	Brief facts of the case are that complainant/respondent's father Shri Amarjeet Singh was travelling in Bus No. RJ \14 9302 of OP/petitioner on 30.07.2008 from Nasirabad to Beawar after purchasing ticket no. 0070621. The said bus met with an accident near Annaporna Factory when the vehicle No. GJ 02 Z 2081 was coming from other side and complainant's father sustained injuries and died on 31.07.2008. As per agreement, complainant was entitled to receive Rs.50,000/- from OP. In spite of notice, payment has not been made. It was further submitted that claim before Motor Accident Claim Tribunal (MACT), Sikar was pending and order granting interim relief has been Complied with, but that amount is not to be adjusted. Alleging deficiency on the part of OP, complainant filed complaint before District forum. OP resisted complaint and submitted that prior to this complaint claim petition has already been filed before MACT, Sikar and as per order of the Tribunal, Rs.25,000/- has already been paid to the complainant. Complainant is entitled to compensation only from MACT, Sikar and not from any other court. It was further submitted that as per Traveller Accident Compensation Scheme, 2000, any amount given as interim relief is to be adjusted from final amount granted by MACT and prayed for dismissal of complaint. Consumer Fora had no jurisdiction to entertain the complaint as held by Hon'ble Apex Court in (1995) 2 SCC 479 -Chairman, Thiruvalluvar Transport Corpn. Vs. Consumer Protection Council. In the foresaid case, the Hon'ble Apex Court	<p>Kuldeep Singh (complainant/petitioner) versus Manager, Rajasthan State Road Transport Corpn. &amp; anr. (Respondent)</p> <p>Kuldeep Singh (complainant/petitioner) versus Manager, Rajasthan State Road Transport Corpn. &amp; anr. (Respondent)</p> <p>Manager, Rajasthan State Road Transport Corpn. &amp; anr. (appellant/petitioner) Versus Kuldeep Singh (respondent)</p> <p>Manager, Rajasthan State Road Transport Corpn. &amp; Anr. (petitioner) versus Kuldeep Singh (respondent)</p>	<p>MACT</p> <p>District Forum</p> <p>SCDRC Jaipur</p> <p>NCDRC</p>	<p><i>Complaint no.</i></p> <p><i>First appeal no. 96 of 2012</i></p> <p><i>Revision petition no. 2843 OF 2012</i></p>	<p>23.4.2007</p> <p>11.04.2012</p> <p>9th May, 2014 08.09.2011,</p>	<p>MACT Sikar was granted interim relief of Rs. 50,000/- pending final decision.</p> <p>Learned District Forum after hearing both the parties, allowed complaint and directed OP to pay Rs.50,000/- in addition to Rs.10,500/- for mental agony etc.</p> <p>Dismissed the appeal and upheld the order of district forum on the same ground.</p> <p>National commission dismissed the Revision petition with no order as cost setting aside the order of district forum and state commission and order of the MACT to be complied with.</p>

		after referring Section 175 M.V. Act held that Claim Tribunal constituted for the area under Motor Vehicle Act had jurisdiction to entertain any claim for compensation arising out of the fatal accident and Consumer Protection Act is a general law and general law must yield to the special law. It was further held that National Commission was wrong in exercising jurisdiction and awarding compensation pertaining to fatal accident arising out of use of motor vehicle.					
2.	<a href="http://164.100.72.12/ncdrcprep/judgement/00140808154707421RP445612.htm">http://164.100.72.12/ncdrcprep/judgement/00140808154707421RP445612.htm</a>	Brief facts of the case are: The Complainant, Mr. Vishnu Singh, insured his Tavera Car with the OP/Respondent, for the period 07.06.2009 to 06.05.2010. Mr. Amrit, a friend of the Complainant, on 26.09.2009, took the vehicle along with his driver to Ambala, when the car met with an accident, while returning from Faridabad, on 27.06.2009. All the occupants of the car, including the driver, died in the accident. FIR was registered with the Police Station Samalkha, District Panipat. The Complainant submitted the claim with the OP for the damages. The OP repudiated the claim on the ground that the Complainant was using the vehicle for hire and reward, which was against the terms and conditions of the insurance policy. Therefore, the Complainant filed the Complaint before the District Forum. The counsel for the complainant denied that, the vehicle was used for the purpose of hire and reward. The investigators report is based on the statement of the father of deceased Mahesh Kumar. It was total hearsay evidence; there was no record that who called him, the telephone number etc. Hence the report of investigator Bholra and Associates ignored the facts and statement. The affidavit of Mr. Anurag Chaturvedi, the General Manager of AJJ	<p>Vishnu Singh (Complainant) Versus IFFCO TOKIO General Insurance Co. Ltd. &amp; Anr. (Respondent)</p> <p>IFFCO TOKIO General Insurance Co. Ltd. &amp; Anr. (Appellant) Versus Vishnu Singh (Respondent)</p> <p>Vishnu Singh (Petitioner) Versus IFFCO TOKIO General Insurance co. Ltd. &amp; Anr. (Respondent)</p>	<p>District Forum</p> <p>SCDRC</p> <p>NCDRC</p>	<p>Complaint case no.47/2011</p> <p>First appeal no. 1522/2011</p> <p>Revision petition no. 4456/2012</p>	<p>8/9/2011</p> <p>1/8/2012</p> <p>1/8/2014</p>	<p>The District Forum partly allowed the complaint and directed the OPs to pay Rs.3,30,726/- to the Complainant, within 2 months and Rs.2,200/- as litigation expenses.</p> <p>The state commission allowed the appeal and Set aside the above order of District Forum.</p> <p>We consider, it as total loss and allow the compensation at the tune of IDV Rs.4,40,968/-. Accordingly we direct the OP to pay Rs.4,40,968/- along with the interest @ 6% p.a. from the date of accident. The order shall be complied within 90 days from the date of</p>

SAMAJ clearly states that, Mr. Amrit and Mahesh Kumar are the employees in their office and the office has not hired any car. Also, the father of Amrit, has submitted an affidavit that Mr. Sonu Bholra has never recorded any statement nor he has signed any statement. The report of the investigator is not worth-consideration, which is based on wrong facts of the case. The counsel further submitted that, the MACT, Panipat, in case no. 47/2011, and the MACT Karkardooma, Delhi in MAC petition no. 273/2010 allowed the claim in favour of the plaintiffs' relatives of deceased. We have perused the repudiation letter of the OP, which do not show the extent of damage to the vehicle, but the claim was rejected on the basis of limitation of use of the vehicle. We have perused the copy of FIR, which reveals that all the occupants of the car including, the driver, died at the spot and the bodies were removed with great difficulty and with the help of TAC (Transport Accident Commission).. This clearly indicates that car was badly damaged and which was beyond repair. Hence, in our opinion, report of mechanic is not necessary. The OP ignored such total damage of vehicle, and rejected the claim, on the ground that the car was being used against the terms and conditions of the policy. Hence, we are of considered view that the car was totally damaged and it was beyond repair, even if no report of mechanic to that effect was brought on record by the Complainant. If, we put reliance upon the law laid down by Hon'ble Supreme Court in Amalendu Sahoo's case, II (2010) CPJ 9, the Complainant is entitled to an amount equal to 75% of the insurance amount as compensation for damages to his car accident. The insured value of the car was Rs.440,968/-

**receipt of this order otherwise; it will carry interest @ 9% p. a. till its realisation. Therefore, set aside the order passed by the State Commission and restore the order of District Forum. The revision petition is allowed. No order as to costs.**

		, and 75% of it, will be Rs.3,30,726/-.					
3.	<a href="http://164.100.72.12/ncdrcprep/judgement/00140826100243802RP466812.htm">http://164.100.72.12/ncdrcprep/judgement/00140826100243802RP466812.htm</a>	Shri Bobby Joseph, the complainant, is a contractor. He entered into a contract with the Southern Railways vide agreement dated 10.6.2005. The contractor/complainant had to execute earth filling and allied works in connection with the construction of Kottayam- Ernakulam Railway Line. On 9.1.2008 during the course of work the tipper lorry that belonged to the complainant hit OHE/Mast at Kottayam, 555/1 between Kottayam and Ernakulam section at 16.30 hours and damaged it. The Divisional Railway Manager (works), Southern Railways calculated the loss including materials and cost of labour at Rs.1,06,000/- and realized the same from the complainant. The Respondent No. 2 also filed a complaint against the driver of the vehicle before the CJM, Kottayam alleging the offence under Section 154 of Railways Act. It is contended that the vehicle of the complainant was insured with the National Insurance Co. Ltd. at the time of accident and he approached the insurance company for indemnifying the loss recovered from the complainant. As the needful was not done, therefore, the complainant filed a complaint before the District Forum. Learned counsel for the petitioner/insurance company vehemently argued that the complainant is not a consumer in this case. She has invited our attention towards Section 175 of the Motor Vehicles Act, which puts a bar on jurisdiction of civil court. She contended that any claim raised by the complainant should go to the Railway Claims Tribunal. She also contended that this Commission cannot arrogate to itself the powers which are not vested with it. The second point raised by her was that it was the	Bobby Joseph & Anr. (Complainants) Versus National Insurance Co.Ltd. (Respondent)	District forum	Complainant case no. 374/09		The District Forum allowed the complaint and directed the insurance company to pay the complainant an amount of Rs.1,06,000/-, the amount recovered from the complainant towards cost of the damage to the Railway, compensation in the sum of Rs.5,000/- alongwith litigation charges of Rs.3,000/-.
			National Insurance Co. ltd. (Appellant) Versus Bobby Joseph & Anr. (Respondents)	SCDRC Thiruvananthapuram	First appeal no. 736/2011	25.5.2012	Aggrieved by that, the insurance company filed an appeal before the State Commission. The State Commission also dismissed the appeal.
			National Insurance Co. Ltd. (Petitioner) Versus Bobby Joseph & Anr. ( Respondents)	NCDRC	Revision petition no. 4668/2012	6.8.2014	The revision petition is without merits, therefore, the same is hereby dismissed with costs of Rs.10,000/- under Section 26 of the Consumer Protection Act, 1986, which be deposited with the Consumer Legal Aid Account of this Commission within a period of thirty days from the date of receipt of this order otherwise it will carry interest @10% per annum till its realization.

bounden duty of the complainant to inform about the accident immediately to the insurance company. However, no information was given to the insurance company. There is huge delay, which is fatal to the claim of the complainant. She explains that the case comes under the Motor Accidents Claims and the complainant can get redressal of his claim before the MACT.

All these arguments are devoid of merits. We have thoroughly perused the insurance policy, which clearly mentions about the liability to third person, which runs as follows:

“i) LIABILITY TO THIRD PARTIES

1. Subject to the Limit of liability as laid down in the schedule hereto, the Company will indemnify the insured in the event of accident caused by or arising out of the use of the Motor Vehicle anywhere in India against all sums including claimant’s costs and expenses which the insured shall become legally liable to pay in respect of

- i. Death of or bodily injury to any person so far as it is necessary to meet the requirements of the Motor Vehicles Act.
- ii. Damage to property other than property belonging to the insured or held in trust or in the custody or control of the insured up to the limit specified in the schedule.”

This provision of law answers all the questions put on behalf of the insurance company. It is thus clear that the petitioner is a consumer and his claim lies with the consumer fora. Both the fora have given concurrent findings in favour of the complainant. It must be borne in mind that there is a delay. The complainant should have informed the Insurance Company immediately. However, delay in this case is

		<p>not fatal though the complainant has committed a mistake. In this case, the amount of loss was assessed by the Railway Department. The Railway Department is a government department. The chances of collusion between the Railway authorities and the complainant are almost nil. Moreover, no such allegation was made against the Railway authority that the Railway Authorities were working in cahoots with the complainant and that is why they have raised an increased amount. There is no possibility of any ulterior motive.</p>					
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