



M.R. KRISHNA MURTHI V. THE NEW INDIA ASSURANCE CO. LTD (CIVIL APPEAL NO. 2476-2477 OF 2019)

*By Muskaan Gupta
From University Institute of Legal Studies,
Punjab University*

BENCH: A.K. Sikri and S. Abdul Nazeer)

ABSTRACT –

In our everyday life we came across the news of horrible road accidents taking place every hour of the day. With the increase in the transportation, accidents are also increasing. Earlier, the only remedy available was to file a civil suit under Motor Vehicle Act, 1988. However, since it is a time-consuming process and leads to huge litigation cost, only few families used to approach the court.

In the recent judgement of **M.R. Krishnamurthy v The New India Assurance Co. Ltd. & Others, CIVIL APPEAL NOS. 2476-2477 OF 2019**, the Supreme Court has recommended mediation for the accident cases. It will provide speedy resolution and the victims would be able to receive compensation without waiting endlessly. As per the recommendations given in this judgement, before approaching the courts the victims can seek compensation from Mediation mechanism. Mediation is a process in which a neutral party facilitates the dispute. The purpose of Mediation is to solve the dispute without taking the cases to the court. It provides each party an opportunity to present their side of the case and make negotiations to settle claims. The mediator works for the betterment of the parties. He encourages and promotes communication between the parties and tries to arrive at a friendly settlement. The proceedings are

completely confidential and the parties are forbidden to use any admission made during the Mediation in some other legal disputes. The difference in this type of Mediation and other alternative dispute resolution is that this is not binding on the parties as such they have the power to terminate mediations. Upon the failure of Mediations, the parties are free to approach Motor Accidents Claims Tribunal. The Motor Vehicles (Amendment) Bill, 2019 (Bill) has been passed by the Lok Sabha but has not brought any recommended alternate dispute resolution proposals.

INTRODUCTION –

Nothing could be more poignant in many cases than “Justice delayed is justice denied.” India accounts for the highest number of road deaths in the world. On an average basis almost 400-500 people lose their precious lives daily in road accidents. As there is already an enormous pendency of cases in India, the addition of such a large number of accident cases only serves to add to the ever-rising backlog of the pendency of the total number of cases, given the less number of disposal of cases due to varied reasons. Thus, a different method is needed to settle the Motor Vehicle claim cases. The case of **M.R. Krishna Murthi v. The New India Assurance Co. Ltd** (Civil Appeal No. 2476-2477 of 2019) is a case relating to a Motor Accident Claim in which a day less than 18 years old child, now a practicing advocate, suffered a nasty accident. In this case, the Supreme Court (DB) with a coram/quorum of Justices **A.K. Sikri and S. Abdul Nazeer**, on March 2019, suggested that the government should opt for mediation and conciliation as an alternative method of settling disputes, so that road accident claims can be settled more expeditiously and in a speedier manner.

**FACTS –**

In this case the appellant was about 18 years when he met with an accident on 26-05-1988 due to negligence of the driver of the other car. As a result, the appellant suffered grievous injuries. Almost three surgeries were performed during the ensuing six years. The net result of this accident was that appellant suffered permanent disability to the extent of 40%. Right after the accident, an accident claim case was instituted before the Motor Accidents Claims Tribunal, seeking compensation under section 166 and 140 of the Motor Vehicle Act, 1988.

DISPOSITION–

On 23-05-2007, the tribunal held the driver, owner and the insurer of the vehicle to be jointly liable and directed them to pay compensation. The tribunal awarded compensation of Rs. 8,48,000/- and also further directed that interest @7% be also paid for a period of 10 years. Aggrieved by this order, the appellant preferred an appeal before the Hon'ble High Court for enhancement of the compensation. But neither the appellant nor his counsel put in appearance on various dates fixed for hearing. However, instead of dismissing the appeal in default due to non-appearance, the Hon'ble High Court decided the matter on merits and enhanced the compensation by Rs 50,000/-. Finding this enhancement to be still inadequate the appellant chose to file a review petition before the Hon'ble Supreme Court.

REASONING/ANALYSIS -

Road accidents are the 'harsh reality' of the Indian scenario. Even though various steps are being taken to reduce the rate of accidents but logically they cannot be altogether eliminated. Therefore, there is a pressing

need to resolve such like cases at the earliest. However, the system of justice under the Motor Accidents Claims Tribunal (MACT) is far from being flawless. Out of the total road accidents cases merely 10% reach the MACT while the remaining fail to gain access to legal recourse. A proposition was floated by a Senior Advocate Mr. Arun Mohan to set up a Motor Accident Mediation Authority (MAMA) in every district. He further proposed to use the services of the already existing National Legal Service Authority (NALSA) to formulate a complete module for the effective working of Motor Accident Mediation Cell (MAMC) until the law is passed by the Parliament. The bench after consideration directed NALSA to set up Motor Accident Mediation Cell which would work independently under the protection of NALSA and all the necessary requirements must be completed within two months and also to share the same with the State Legal Services Authorities (SLSAs) so as to implement it in their respective district legal services authorities.

The bench also referred to Apex Court judgement of 2017 in which the court directed the states to implement Modified Claims Tribunal Agreed Procedure formulated by the Delhi High Court in December, 2014. Reiterating the same judgement in this case, the bench directed NALSA for coordinating the same with various High Courts. Also, Motor Accident Claims Annuity Deposit (MACAD) shall be applied by all Claim Tribunals on all India basis. All the 21 banks, members of Indian Banks Association, who had taken decision to implement MACAD Scheme would do the same on all India basis.

In 2017, a report of the High Level Committee to Review the Institutionalisation



of Arbitration Mechanism in India suggested, inter alia, that the Government may consider the feasibility of having a standalone legislation for mediation, after debate and discussions with the relevant stakeholders. Even though mediation, as a process to settle disputes, has been introduced in the Companies Act 2013, the Insolvency and Bankruptcy Code 2016, as well as in the Commercial Courts Act 2015 but its applicability to the Motor Vehicle Act is a tad cumbersome surmise.

Therefore, the Hon'ble Supreme Court held that "We impress upon the Government to also consider the feasibility of enacting Indian Mediation Act to take care of various aspects of mediation in general."¹ Mediation process will have a plethora of advantages like reducing court cost, providing speedier access to justice, ensuring timely awarding of compensation to the victims. In the decided case titled **Moti Ram (D) Tr.Lrs & Anr. Vs. Ashok Kumar & Anr**,² the Hon'ble Apex Court, held that discussions and suggestions made during the mediation process being confidential in nature, the litigants must repose increased trust in them. The book, "Justice, Courts and Delays", written by Mr. Arun Mohan, Senior Advocate, also suggests that authorities like Motor Accident Mediation Authority are required in India, to save the precious time of the judiciary, especially, when the Judiciary is already burdened with a multiplicity of pending and ever increasing cases.

CONCLUSION-

In India, there is no specific Act or Law which deals with mediation. Even though, in various statutes like Companies Act, Insolvency and Bankruptcy Code, Commercial Courts Act Mediation has found some recognition but its application to area of settling claims is still unexplored. Now it is the right time to expand the area of Mediation. For ensuring easy access of compensation, reducing the time and preventing other obstacles faced by the victims, the concept of Mediation would be of great significance.

The factor which makes the ruling in the case mentioned as title, especially noteworthy is that in spite of the various steps being taken to reduce road accidents and fatalities, the ground picture is quite the opposite. In common parlance, the Motor Accidents Claims Tribunal (MACT) is often termed as a 'mountain of pending cases', thus making it altogether more important to prefer an alternative to address the backlog of pendency. Mediation being a process in which a third neutral party attempts to resolve the dispute between the parties, it would be in the fitness of things, that the process of mediation should not only be used as an effective tool to amicably settle road accident claim cases but its scope, relevance and jurisdiction should be extended to other fields of disputes/ conflicts also. Simply put, mediation process is the need of the hour being simple, less technical, informal in nature, quicker, cheaper and moreover far more easily accessible to the litigants.

¹ M.R. Krishna Murthi v. The New India Assurance Co. Ltd., (Civil Appeal No. 2476-2477 of 2019).

² Moti Ram (D) Tr. LRs and Anr. v Ashok Kumar and Anr (Civic Appeal No. 1095 of 2008)