



2026:DHC:7226



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% **Date of decision: 24th August 2026**# **CNR No. DLHC011103982014**+ MAC.APP. 658/2014&CM APPL. 11767/2014CM APPL.
11769/2014

ORIENTAL INSURANCE CO LTD Appellant

versus

RAVIDNER NATH PANDEY & ORS Respondents

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CNR No. DLHC011104002014+ MAC.APP. 659/2014&CM APPL. 11770/2014CM APPL.
11772/2014 CM APPL. 62373/2025

ORIENTAL INSURANCE CO LTD Appellant

versus

MAYANK PANDEY & ORS Respondents

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CNR No. DLHC011041282014

+ MAC.APP. 687/2014

MAYANK PANDEY Appellant

versus

DELHI KOTA ROADWAYS PVT LTD &ORS.....Respondents

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CNR No. DLHC011041362014

+ MAC.APP. 690/2014&CM APPL. 33161-33162/2025

RAVINDER NATH PANDEY & ORS Appellants

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versus

DELHI KOTA ROADWAYS PVT LTD & ORS.....Respondents

Appearance : Mr. Pankaj Seth and Ms. Shruti Jain & Ms. Tanya Jindal,
Advocates for Insurance Company.

Mr. Yogesh Swaroop, Ms. Shivangi Singh & Mr. K. K.
Kaushik, Advocates for claimants.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

ANISH DAYAL, J (ORAL)

CM APPL. 11769/2014 in MAC.APP. 658/2014 and CM APPL. 11772/2014 in MAC.APP. 659/2014

1. In the facts and circumstances, as narrated in the application, delay of 2 days in filing the accompanying appeals stand condoned.
2. Both these applications stand disposed of.

MAC.APP.658/2014, MAC.APP.659/2014, MAC.APP.687/2014 & MAC.APP.690/2014

1. These cross appeals have been filed by the Insurance Company and claimants assailing the impugned award dated passed 09th April 2014 by the Motor Accident Claims Tribunal [**‘MACT’**], East District, Karkardooma Courts in *MACT Suit No. 301/2010* and *MACT Suit No. 302/2010*.
2. The accident in question occurred on 30th July 2006, when *Mr. Mayank Pandey* (**‘injured claimant’**) was travelling along with his mother, *Ms. Malti Pandey* (**‘deceased’**), as a pillion rider, from *Ram Nagar Extension* to *Hapur* on his motorcycle bearing No. DL-7SAG-0633, when



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truck bearing No. HR-47-8002 (*'offending vehicle'*) allegedly overtook the motorcycle from the left side and immediately applied brakes, thereby, triggering a collision of the motorcycle with the offending vehicle. Injured claimant sustained multiple injuries, while his mother passed away after 8 days on 03rd August 2006.

3. In the case of deceased, compensation of Rs.4,21,000/-along with 7.5% interest was awarded to legal heirs of deceased. This finding has been challenged by the Insurance Company in MAC.APP.658/2014, whereas, MAC.APP. 690/2014 has been filed by the LR's of deceased seeking enhancement of compensation.

4. In the case of injured claimant,compensation of Rs.6,35,000/- along with 7.5% interest was awardedon account of injuries sustained by him. This finding has been challenged by the Insurance Company in MAC.APP.659/2014, whereas,MAC.APP.687/2014 has been filed by the injured claimant for enhancement.

5. At the outset, it is worth noting that recovery rights have been granted to the Insurance Company as stated in *paragraph 34* of the impugned awards. Further, service of driver and owner of offending vehicle was completed,as noted in order dated 27th November 2015 of Joint Registrar, and counsel had appeared on 1st February 2016, however, no appearance has been noted thereafter.

6. *Mr. Pankaj Seth*, counsel for Insurance Company, points out the abysmal lack of discussion relating to the issue of negligence by the MACT. He contends that *paragraph 18* of the impugned award, simply finds mention of the affidavit of *Mayank Pandey ('PW1')* and the *post mortem* report and thereafter, arrived at the finding in a summary manner, that the accident had occurred due to the negligence of offending vehicle.



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7. *Mr. Pankaj Seth*, further reinforces his argument by stating that such manner of scratch analysis done by the MACT, ought to be denounced for the reason that it involves serious issues of motor accidents claims and therefore, proper analysis ought to be done by them basis the evidence on record.

8. Needless to say, that the Court agrees with the contention of *Mr. Pankaj Seth*, in this regard. The summary manner, in which the issue of negligence has been decided, without advertence or discussion of the evidence on record, is deprecated. It does not provide the appeal Court any basis for appreciating the evidence which was led before the MACT. We do find that in some matters the MACT does only a very sparse and slim analysis of the evidence, basis which a conclusion is reached on the issue of negligence. Possibly, this casual approach is due to the application of the burden of proof basis preponderance of probabilities and the overall jurisprudence of a beneficial legislation. However, lack of a proper analysis leaves the parties, particularly the insurance companies floundering for a proper reason to challenge. If the reasons given are robust and comprehensive backed up by the evidence on record and applicable law, there may be a lesser chance of appeals being filed merely on grounds that the Tribunal has not applied its mind.

9. However, notwithstanding the same, it would be the duty of this Court to consider the same in these appeals, considering that the matter involves an accident which occurred in 2006, about two decades back, and the appeal has been pending before this Court for a decade, and no purpose would be served remanding it back.

10. In this regard, it has been pointed out by *Mr. Pankaj Seth*, that there was no criminal proceeding in this matter; which has been countered by *Mr.*



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Yogesh Swaroop, counsel for the claimants, by stating that, though, the FIR was not lodged immediately, however, a complaint was lodged with the police, which did not proceed ahead. Therefore, they were constrained to move a complaint before the Senior Superintendent of Police ('**SSP**') which eventually culminated in the registration of an FIR.

11. A plea regarding contributory negligence on the part of injured claimant has also been raised by the Insurance Company.

12. The issue of negligence can only be sustained on the basis of the testimony of *Mayank Pandey* ('**PW1**') who was an injured eyewitness. He stated that he was travelling on his motorcycle, along with his mother and the offending vehicle had hit their motorcycle from the back side and then tried to overtake the motorcycle from the left side in a rash and negligent manner. He stated that the offending vehicle was being driven at high speed and after hitting the motorcycle slightly from the back side, the driver of the offending vehicle immediately applied brakes, resulting in the said accident.

13. Deceased/*Malti Pandey* was taken to *Yashoda Hospital, Ghaziabad* in an ambulance, along with *PW1* and was admitted there, however, she expired after a week. The Death Certificate was exhibited as *Ex. PW1/A* and the report in Daily Diary ('**DD**') was exhibited as *Ex. PW1/B*. The formal FIR was finally registered on 18th July 2007 and exhibited as *Ex. PW1/C*, the *post mortem* report conducted on 03rd August 2006 was exhibited as *Ex. PW1/E*.

14. There was no substantial cross examination of *PW1* by the Insurance Company. He reiterated that he had maintained a proper gap between the motorcycle and the offending vehicle and therefore, the accident could have been avoided. He stated that the offending vehicle was ahead of him after overtaking and he had to immediately apply his brakes. He also stated that his father had informed the police about the accident, though, he was not



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aware when the information had been given to the police, since he was in the hospital when the police met him for the first time. He denied that the accident took place due to his mistake. No other evidence was placed by the Insurance Company, with respect to contributory negligence and therefore, the plea cannot be accepted.

15. The driver and owner did not appear, therefore, the evidence of *PW1* could not be rebutted as regards the manner of the accident. Accordingly, the issue of negligence, though, sparsely discussed by the MACT, is sustained for the reasons mentioned above.

16. On the issue of compensation; as regards the injured claimant, no submissions have been made on behalf of counsel for claimant. Accordingly, the finding of MACT is sustained.

17. As regards the deceased/*Malti Pandey*, alignments shall be made in view of the principles enunciated in ***National Insurance Co. Ltd. v. Pranay Sethi***, (2017) 16 SCC 680. Future prospects shall be granted at 10%, considering the deceased was 52 years of age. Deduction towards personal and living expenses has not been made. Considering that the deceased had 3 children, deduction of $1/3^{\text{rd}}$ shall be made. Funeral expenses shall be awarded at Rs.15,000/-, loss of estate shall be awarded at Rs.15,000/-, loss of love and affection will be deleted and loss of consortium shall be granted at Rs. 1,60,000/- (Rs.40,000/- x 4), there being 4 claimants.

18. Accordingly, the revised computation will be as under:

S. No.	Heads	Awarded by the Tribunal	Awarded by this Court
1	Income of deceased (A)	Rs.3,000/-	Rs. 3,000/-
2	Add: Future Prospects (B)	Nil	Rs. 300/-



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3	Less: Personal expenses of deceased (C)	Nil	Rs. 1,100/-
4	Loss of dependency (A+B)-C=D	Rs. 3,000/-	Rs. 2,200/-
5	Annual loss of dependency (Dx12) = (E)	Rs. 36,000/-	Rs. 26,400/-
6	Multiplier (F)	11	11
7	Total loss of dependency (E x F)= (G	Rs. 3,96,000/-	Rs. 2,90,400/-
8	Compensation for loss of consortium (H)	Nil	Rs. 1,60,000/-
9	Compensation for loss of love and affection (I)	Rs. 10,000/-	Nil
10	Compensation for loss of estate (J)	Rs. 10,000/-	Rs. 15,000/-
11	Compensation towards funeral expenses (K)	Rs. 5,000/-	Rs. 15,000/-
12	Total compensation (G+H+I+J+K)= L	Rs. 4,21,000/-	Rs. 4,80,400/-
13	Rate of Interest Awarded	7.5%	7.5%

Directions

19. For the aforesaid reasons, compensation incase of deceased/Ms. *Malti Pandey*, has been enhanced by Rs. 59,400/- [**“enhanced amount”**].

20. Enhanced amount along with 7.5% interest per annum from the date of filing the petition shall be deposited before the MACT within a period of four weeks, which shall be released as lumpsum to the claimants within two weeks thereafter.

21. By order dated 25th July 2014, the Insurance Company was directed to deposit the entire compensation amount, along with accrued interest before the Registrar General and 30% amount was released to the claimants as per the directions of MACT. Considering that appeals have been disposed of, the balance amount shall also be released to the claimants, as per the apportionment directed by the MACT.

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22. Compensation awarded to *injured claimant/Mayank Pandey* has been upheld. By order dated 25th July 2014, the Insurance Company was directed to deposit the entire compensation amount, along with accrued interest, before the Registrar General and 30% compensation was directed to be released to the claimant. Considering that the appeal has been disposed of, balance compensation, along with accrued interest shall be released to the claimant as lumpsum.
23. All these four appeals stand disposed of in above terms.
24. Pending applications, if any, are rendered infructuous.
25. Statutory deposit be refunded to the Insurance Company, only if the order of deposit has been complied with.
26. Order be uploaded on the website of this Court.

ANISH DAYAL
(Judge)

AUGUST 24, 2026/sm/sp