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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

CNR No. DLHC013149642016

+ **MAC.APP. 1086/2016**

MANISH MADAN

.....Appellant

Through: Mr. Anjum Kumar and Mr. Vivek
Malhotra, Advs.

versus

PREM PAL SINGH & ORS (NATIONAL INSURANCE CO LTD)

.....Respondent

Through: Mr. Attin Shankar Rastogi and Ms.
Jigyasa Parashar, Advs. for R-3.

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

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14.08.2026

1. This appeal has been filed by the driver of the offending vehicle, *Manish Madan*, challenging the *recovery rights* granted against him and in favour of respondent no.3/Insurance Company by Award dated 21st July 2016 passed by the Motor Accident Claims Tribunal, West, Tis Hazari Courts (*'MACT/Tribunal'*) in MACT No. 476673/2016 (old suit no. 282/2012), whereby compensation of Rs.7,98,824/- along with interest 9% per annum was awarded.

2. The claim was filed on the allegation of respondent no. 1 that, on 05th October 2011 at about 08:05 p.m., when he had gone to fetch milk from a DMS booth and had parked his scooter near the DMS booth at Ansal Building, Main Market, Vikaspuri, an *Elantra car* bearing registration No. DL-9CH-



3171, allegedly driven by the appellant under the influence of liquor in a rash and negligent manner, hit the claimant.

3. The defence taken by the appellant was that he was 85% permanently disabled, with amputation of his right arm, and therefore, the question of his driving a vehicle did not arise. His case was that he was taking a test drive with one person when they saw the injured lying on the road and stopped to help him. Since members of the public accosted the test driver of the *Elantra car*, the driver ran away. The appellant stated that he tried to help in the situation but was falsely implicated by the police and made an accused in FIR No. 345/2011 under Sections 279/338 IPC, Police Station Vikaspuri.

4. *Mr. Anjum Kumar*, counsel for appellant, has pointed out to the Court that the reliance placed by MACT on the FIR and the chargesheet for fastening liability on the driver, along with the owner/respondent no.2 (the company, which continues to be the registered owner of the vehicle) is not sustainable, considering that appellant, *Manish Madan*, has since been acquitted by a judgment dated 07th May 2018 in Case No. 56162/2016 passed by the Additional Sessions Judge, West, Delhi.

5. *Mr. Kumar*, counsel for appellant, has taken us through the order, which concludes that there was a genuine doubt relating to the identity of the person driving the offending vehicle as well as regarding the exact location where the accident took place.

6. *Mr. Attin Shankar Rastogi*, counsel for the Insurance Company, however, contends that as per settled law, reliance ought not to be placed on an order of acquittal, since the burden of proof before the MACT is based on the preponderance of probabilities.

7. He further states that to the extent that the MACT relied upon the FIR



and chargesheet as incriminating material against the appellant, the order of acquittal can certainly be relied upon by the appellant to contend that such material cannot, at this stage, sustain the finding against him.

8. On the other issues of preponderance of probability, the primary defence taken by appellant is his own disability. The disability certificate of the appellant has been placed on record, which shows that he is 85% permanently disabled, with amputation of the right upper limb through the upper arm at the level of one-third.

9. Appellant was present in the Court, and the Court has had an opportunity to see the nature and extent of his disability.

10. In the opinion of this Court, it seems quite difficult to accept that appellant would have been driving the car with the kind of amputation that he has suffered to his right arm.

11. Nevertheless, the plea of the Insurance Company will have to be examined.

12. *Mr. Rastogi*, counsel for the Insurance Company, has pointed out that the appellant was found to be reeking of alcohol, as testified to by the claimant as **PW1**.

13. However, there is no evidence on record, including in the MLC of *Manish Madan*, to establish that alcohol was present in his system.

14. *Mr. Rastogi*, counsel for the Insurance Company, submits that the medical examination was conducted after 4-5 hours and that, therefore, there could have been a possibility that alcohol was no longer detectable.

15. However, there is nothing on record to establish that any alcohol test was carried out in the first place.

16. The other issue, which has been raised, is with respect to the testimony



of **PW1** itself, who states that on the date of accident, he was standing at the DMS booth and he saw the *Elantra car* being driven by a *single* person under the influence of liquor, who came and hit him.

17. It is noted that the site plan itself was prepared on 16th March 2012, i.e. after more than 6 months; however, it is pointed out that no site plan was produced in the MACT proceedings and the site plan reference is only in the acquittal order.

18. An issue was raised of appellant continuing to have a driving licence, despite amputation, which was considered as relevant by the MACT. In the opinion of this Court this aspect cannot influence the decision *qua* the appellant's negligence. If the appellant continued to hold his licence post his amputation in 2007, the licence being issued in 1998 prior to his amputation, this fact itself cannot lead to a conclusion that he was driving the offending vehicle. This inference drawn out by the MACT is illogical and untenable.

19. The other issue which arises in relation to the appellant concerns the registered ownership of the vehicle. Respondent No. 2 is the registered owner of the vehicle, as is also borne out from the testimony of *Mr. P.L. Anand*, the authorised representative and director of *M/s Waves Aircon Private Limited*. Though the company states that it had sold the vehicle pursuant to a delivery receipt dated 04th June 2011 and that consideration had been paid, however, the registration of the vehicle was not transferred.

20. In view of the reasons stated above, the Court is not inclined to agree with the MACT insofar as it granted *recovery rights* against the appellant.

21. Accordingly, the appeal is allowed, and the *recovery rights* granted against the appellant are set aside.

22. Accordingly, the appeal is disposed of.



23. Pending applications, if any, are rendered infructuous.
24. Order be uploaded on the website of this Court.

ANISH DAYAL, J

AUGUST 14, 2026/MK/bp