



2026:DHC:5768



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

% **Date of decision: 17th July 2026**

+ **MAC.APP. 765/2013**

HDFC ERGO GENERAL INSURANCE CO LTD Appellant

versus

SMT UMRAWATI & ORS Respondents

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+ **MAC.APP. 643/2015 & CM APPL. 14902/2015**

HDFC ERGO GENERAL INSURANCE CO LTD Appellant

versus

SONA DEVI & ORS Respondents

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+ **MAC.APP. 645/2015 & CM APPL. 14913/2015 & CM APPL. 7823-7825/2026**

HDFC ERGO GENERAL INSURANCE CO LTD Appellant

versus

POLICE RAM & ORS Respondents

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+ **MAC.APP. 646/2015&CM APPL. 14916/2015**

HDFC ERGO GENERAL INSURANCE CO LTD Appellant

versus

BHAGMANI DEVI & ORS Respondents

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By: MANISH KUMAR
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MAC.APP. 765/2013 & connected appeals

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Appearance :Ms. Suman Bagga & Ms. Mouli Sharma,
Advocates for Insurance Co.

Mr. S.N. Parashar & Mr. Ritik Singh, Advs. for
claimants.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

ANISH DAYAL, J (ORAL)

1. This common judgment shall dispose of the above-captioned four appeals filed by the insurance company assailing the award dated 12th May 2015 whereby the Motor Accident Claims Tribunal (*'MACT/Tribunal'*) denied the insurance company the right to recover the awarded amount from the driver and owner of the offending vehicle.
2. The accident in question occurred on 19th October 2009 when *Siyaram* (now deceased), along with his colleagues *Tarakeshwar Ram* (since deceased), *Dharam Nath Ram* (since deceased), and *Polish/Police Ram* (injured-claimant) were going to Ghaziabad from the factory of *M/s. Sandeep Metal Udyog*, located in Faridabad in an *Eicher Canter*, after loading aluminium plates. All these four persons were working in the factory as labourers with *M/s. Sandeep Metal Udyog*. The goods belonged to their employer and the owner of the offending vehicle, *M/s. Sandeep Metal Udyog*. The Canter was being driven by the driver *Deepak Kumar*.
3. It is alleged that the three deceased and the injured, in respect of whom claims have been filed, were travelling in the rear body of the



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truck along with the loaded aluminium plates. They had repeatedly cautioned the driver not to drive the vehicle carelessly, rashly and negligently. However, the driver apparently paid no heed to their warnings. When he suddenly applied the brakes, the aluminium plates fell on the four people travelling in the rear body of the truck. As a result, *Siyaram* and *Tarakeshwar Ram* died on the spot, while *Dharam Nath Ram* died during the treatment, and *Police/Polish Ram* sustained grievous injuries.

4. **MAC.APP. 765/2013** has been filed challenging the award passed by the MACT in Suit No. 819/2010, instituted by the legal representatives of deceased *Siyaram*, whereby compensation of Rs. 6,88,655/-, along with interest @ 9% per annum, was awarded in favour of the claimants *vide* judgment dated 30th March 2013.

5. **MAC.APP. 643/2015** has been filed against the award passed in MACT Case No. 02/13/10, instituted by the legal representatives of deceased *Dharam Nath Ram*, whereby compensation of Rs. 6,58,290/-, along with interest @ 9% per annum, was awarded in favour of the claimants *vide* award dated 12th May 2015.

6. **MAC.APP. 645/2015** has been filed against the award passed in MACT Case No. 03/13/10, instituted by the injured *Police/Polish Ram*, whereby compensation of Rs. 12,33,900/-, along with interest @ 9% per annum, was awarded by the MACT *vide* judgment dated 12th May 2015.

7. **MAC.APP. 646/2015** has been filed against the award passed in MACT Case No. 01/13/10, instituted by the legal representatives of deceased *Tarakeshwar Ram*, whereby compensation of Rs. 7,59,000/-



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[Rs. 7,79,000 - 20,000 in view of the admission of **PW1** that she was paid Rs. 20,000/- towards funeral expenses], along with interest @ 9% per annum, was awarded in favour of the claimants *vide* judgment dated 12th May 2015.

8. *Vide* order dated 23rd August 2013, this Court, while hearing the appeal in **MAC.APP. 765/2013**, directed the Insurance Company to deposit the entire compensation amount along with accrued interest by the insurance company before the Registrar General of this Court and directed release of 70%, in terms of directions in the MACT's award.

9. In **MAC.APP. 643/2015**, **MAC.APP. 645/2015** and **MAC.APP. 646/2015** *vide* order dated 19th August 2015, this Court directed the Insurance Company to deposit the entire awarded compensation and further directed the release of 50% to the claimants.

10. *Ms. Suman Bagga*, counsel for the insurance company, contends that the insurance company has duly complied with the orders passed by this Court. She further submits that the insurance company does not dispute the quantum of compensation awarded to the claimants. The only grievance raised in the present appeals is with respect to the denial of *recovery rights* against the owner and driver of the offending vehicle.

11. The award, in *paragraph 20*, records that the vehicle was insured for one driver and two passengers. The insurance company raised the defence that the expression '*two passengers*' would include only those travelling in the cabin of the vehicle and not persons travelling in the rear body of the truck. It is contended that although *recovery rights* were specifically pleaded, the same were rejected by the MACT on the basis



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that there was no cross-examination on the point that the deceased/injured were travelling in the body of the truck.

12. In this regard, *Ms. Bagga* has invited the attention of this Court to the testimony of the injured claimant, *Police/Polish Ram*, who deposed that the *Eicher Canter* was being driven by *Deepak Kumar* at a very high speed, in a rash and negligent manner, and in a zigzag manner. He further stated that he and his co-travelers repeatedly cautioned the driver not to drive in such a manner, but the driver paid no heed to their warnings. He further deposed that when the *Eicher Canter* reached Faridabad, the driver suddenly applied the brakes, due to which the loaded aluminium plates fell down over him and his co-passengers, who were all sitting in the body of the canter.

13. *Ms. Bagga* contends that, in view of this clear admission made by the injured claimant, who was also an eyewitness to the accident, the question of cross-examination did not arise and, therefore, the observations and findings of the MACT rejecting the insurer's plea on the ground of absence of cross-examination are untenable.

14. Notably, no one appeared on behalf of the driver and the owner before this Court. It is recorded in the order dated 10th February 2014 in *MAC.APP. 765/2013* and orders dated 15th October 2015 in *MAC.APP. 643/2015*, *MAC.APP. 645/2015* and *MAC.APP. 646/2015*, that the *vakalatnamas* were filed on behalf of the driver and owner. However, despite entering appearance through counsel, they have not participated in the proceedings thereafter.

15. *Mr. Ajay Sharma* appeared before the MACT on behalf of *M/s*



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Sandeep Metal Udyog and also placed on record his evidence by way of affidavit, wherein he had stated that all four persons were employees of the company and were covered under the Employees' Insurance Scheme. However, he did not state whether they were travelling in the cabin of the vehicle or whether they were not travelling in the body of the vehicle and therefore, would not be covered under the insurance policy.

16. *Mr. Ajay Sharma* was not cross-examined by the insurance company on this aspect. In this regard, *Ms. Suman Bagga* submits that no such cross-examination was necessary, as there was no assertion in the affidavit contrary to the specific defence already taken by the insurance company. She has invited the attention of the Court to the written statement filed by the insurance company, wherein it was specifically pleaded that the deceased and the injured were gratuitous passengers and that the risk pertaining to such passengers was not covered under the insurance policy.

17. In support of her submissions, she places reliance on the decision of the Supreme Court in *National Insurance Co. Ltd. v. Baljit Kaur*, (2004) 2 SCC 1, wherein the Supreme Court held that the liability of the insurer does not extend to gratuitous passengers travelling in a goods vehicle. For ease of reference, relevant paragraphs are extracted as under:

“10. The material portion of the provision contained in Section 147 of the Motor Vehicles Act, 1988, as amended by the Motor Vehicles (Amendment) Act, 1994 reads as follows:

“147. Requirements of policies and limits



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of liability.—(1) In order to comply with the requirements of this Chapter, a policy of insurance must be a policy which—

*(a) ****

(b) insures the person or classes of persons specified in the policy to the extent specified in sub-section (2)—

(i) against any liability which may be incurred by him in respect of the death of or bodily injury to any person, including owner of the goods or his authorized representative carried in the vehicle or damage to any property of a third party caused by or arising out of the use of the vehicle in a public place;

*(ii) ***”*

17. By reason of the 1994 amendment what was added is “including owner of the goods or his authorised representative carried in the vehicle”. The liability of the owner of the vehicle to insure it compulsorily, thus, by reason of the aforementioned amendment included only the owner of the goods or his authorised representative carried in the vehicle besides the third parties. The intention of Parliament, therefore, could not have been that the words “any person” occurring in Section 147 would cover all persons who were travelling in a goods carriage in any capacity whatsoever. If such was the intention, there was no necessity of Parliament to carry out an amendment inasmuch as the expression “any person” contained in sub-clause (i) of clause (b) of sub-section (1) of Section 147 would have included the owner of the goods or his authorised representative besides the passengers who are gratuitous or otherwise.

20. It is, therefore, manifest that in spite of the amendment of 1994, the effect of the provision



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contained in Section 147 with respect to persons other than the owner of the goods or his authorized representative remains the same. Although the owner of the goods or his authorized representative would now be covered by the policy of insurance in respect of a goods vehicle, it was not the intention of the legislature to provide for the liability of the insurer with respect to passengers, especially gratuitous passengers, who were neither contemplated at the time the contract of insurance was entered into, nor was any premium paid to the extent of the benefit of insurance to such category of people.

21. The upshot of the aforementioned discussions is that instead and in place of the insurer the owner of the vehicle shall be liable to satisfy the decree. The question, however, would be as to whether keeping in view the fact that the law was not clear so long such a direction would be fair and equitable. We do not think so. We, therefore, clarify the legal position which shall have prospective effect. The Tribunal as also the High Court had proceeded in terms of the decision of this Court in Satpal Singh [(2000) 1 SCC 237 : 2000 SCC (Cri) 130] . The said decision has been overruled only in Asha Rani [(2003) 2 SCC 223 : 2003 SCC (Cri) 493] . We, therefore, are of the opinion that the interest of justice will be subserved if the appellant herein is directed to satisfy the awarded amount in favour of the claimant, if not already satisfied, and recover the same from the owner of the vehicle. For the purpose of such recovery, it would not be necessary for the insurer to file a separate suit but it may initiate a proceeding before the executing court as if the dispute between the insurer and the owner was the subject-matter of determination before the Tribunal and the issue is decided against the owner and in favour of the insurer. We have issued the aforementioned directions having regard to the



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scope and purport of Section 168 of the Motor Vehicles Act, 1988, in terms whereof, it is not only entitled to determine the amount of claim as put forth by the claimant for recovery thereof from the insurer, owner or driver of the vehicle jointly or severally but also the dispute between the insurer on the one hand and the owner or driver of the vehicle involved in the accident inasmuch as can be resolved by the Tribunal in such a proceeding.”
(emphasis added)

Conclusion

18. In view of the position, as taken by the Supreme Court, this Court is of the opinion, there is no evidence establishing that the deceased and injured were travelling in a capacity covered under the insurance policy or that they fell within the category of owners of goods or their authorised representatives. Therefore, the insurer cannot be fastened with liability for the claims arising from the death and injuries of *gratuitous passengers*.

19. Accordingly, these appeals are disposed of with the direction that there shall be a ‘*right of recovery*’ with the insurance company *qua* the owner of the offending vehicle.

20. Considering that these appeals have remained pending since 2013 and that the period of the fixed deposits directed by the learned MACT has already expired, the balance amount of compensation, along with the accrued interest thereon, shall be released to the claimants in a lump sum in terms of the apportionment directed in the impugned awards passed by the MACT.

21. It has been brought to the notice of this Court that the injured



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claimant, *Police/Polish Ram*, has since expired and that his legal representatives have been brought on record in terms of the amended memo of parties filed on 05th August 2025. Accordingly, the compensation amount in MAC.APP. 645/2013 shall be released to the legal representatives of the deceased *Police/Polish Ram* in equal shares.

22. The Registry shall transfer/remit the amounts into designated accounts of the legal heirs. Details whereof shall be provided with proofs of identity to the Registry, by the counsel for claimants.

23. All these appeals are disposed of accordingly in above terms.

24. Pending applications, if any, are rendered infructuous.

25. Date of 25th September 2026, fixed earlier, stands cancelled.

26. Statutory deposit, if any, shall be refunded to appellate/Insurance Company only upon deposit of the enhanced amount along with the accrued interest.

27. Judgement be uploaded on the website of this Court.

(ANISH DAYAL)
JUDGE

JULY 17, 2026/sm/bp