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

Date of decision: 20.07.2023

+ **MAC.APP. 338/2023**

SHRI RAM GENERAL INSURANCE COMPANY LTD
INSURER Appellant

Through: Mr.Yasharth Kant, Mr.M.R.Singh,
Advs.

versus

SAVITRI AND ORS Respondents

Through: None.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA

NAVIN CHAWLA, J. (ORAL)

CM APPL. 34264/2023

1. This is an application seeking condonation of 7 days delay in filing the appeal.
2. For the reasons stated in the application, the delay is condoned.
3. The application is allowed.

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4. This appeal has been filed challenging the Award dated 17.02.2023 (hereinafter referred to as the 'Impugned Award') passed by the learned Motor Accidents Claims Tribunal (South East), Saket Courts, New Delhi (hereinafter referred to as the 'Tribunal') in



MACT No.483/2019 titled as *Ms.Savitri & Ors. v. Sh. Ramu & Ors.*

5. The limited grievance of the appellant to the Impugned Award is that the deceased Babu Ram was driving, what is colloquially known as a '*Jugad*' vehicle. The learned counsel for the appellant submits that such a vehicle was not registered with the Transport Authority nor was it shown that the deceased had a driving licence for the same. He submits that these vehicles are a nuisance on the road, as observed by the Supreme Court in *Chairman, Rajasthan State Road Transport Corporation and Ors. V. Santosh and Ors.*, (2013) 7 SCC 94. He submits that, therefore, the learned Tribunal has erred in not attributing any Contributory Negligence to the deceased while awarding compensation.
6. I am unable to agree with the submission made by the learned counsel for the appellant.
7. While it is true that '*Jugad*' vehicles can be a nuisance and sometimes are driven in a rash and negligent manner, the same can also be a case with a properly licenced vehicle and with a driver otherwise having a valid driving licence. It, therefore, has to be determined on a case-to-case basis whether the accident has occurred due to the negligence of the person plying such a '*Jugad*' vehicle or not. If it is proved that the accident had occurred only because of the rash and negligent driving of the offending vehicle, merely because the deceased/injured was driving a '*Jugad*' vehicle, contributory negligence cannot be attributed to the driver of such



‘Jugad’ vehicle only on account of him/her driving a ‘Jugad’ vehicle.

8. In the present case, the learned Tribunal has also rejected the submission of the appellant on this account, observing as under:

“26. This Tribunal finds force in the arguments of Id. Counsel for the claimant. Although plying “Jugad” on Delhi road is a nuisance and danger to the public at large and other fellow drivers on the road, but there are separate and specific consequence for so plying such Jugad vehicles in the forms of penalties under the MV Act. But having noted so unless in a specific situation / case, like in the present case, it is proved on record that there was on facts and negligence contributory or absolute on the part of a person/deceased in the present case, just he was driving such Jugad on main road, ipso facto, does not amounts to sole or even to contributory negligence. To hold otherwise would be contrary to material on record in the present case.”

9. I am in agreement with the observation of the learned Tribunal.
10. In fact, even in ***Chairman, Rajasthan State Road Transport Corporation and Ors.*** (supra), the Supreme Court had, while determining the larger issue of the coverage of ‘Jugad’ vehicle under the provisions of the Motor Vehicles Act, 1988, dismissed the appeal wherein complete liability of providing compensation had been fastened on the Rajasthan State Road Transport Corporation while unfastening the liability of the driver and the owner of the ‘Jugad’ vehicle.



11. I, therefore, find no merit in the present appeal. The same is accordingly dismissed.

NAVIN CHAWLA, J

JULY 20, 2023
RN/ss

