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

+ **MAC.APP. 277/2022**

YOGESH ALIAS SAHIL

.....Appellant

Through: **Mr.Ved Vyas Tripathi, Advocate**

versus

LAVI KUMAR JAIN & ORS.

.....Respondents

Through: **Mr. Chaitanya Sundriyal, Advocate
for R-1 and R-2.**

**Mr.Sameer Nandwani, Advocate for
R-3.**

+ **MAC.APP. 354/2022**

RAMJI LAL SHARMA & ORS.

.....Appellants

Through: **Mr.Ved Vyas Tripathi, Advocate**

versus

**LAVI KUMAR JAIN & ORS.(SHRIRAM GENERAL INSURANCE
COMPANY LTD.)**

.....Respondent

Through: **Mr. Chaitanya Sundriyal, Advocate
for R-1 and R-2.**

**Mr.Sameer Nandwani, Advocate for
R-3.**

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

26.11.2024

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1. An Appeal under *Section 173 of the Motor Vehicle Act, 1988* has been filed on behalf of the Claimants to challenge the final order dated 13.05.2022 vide which the MACT No.778/2019 and 780/2019 has been dismissed.



2. ***Briefly stated*** the case of the Appellant is that on 23.07.2019 at about 4.30 AM when the Petitioner Yogesh @ Sahil along with his friend, Mohit, was travelling on a two wheeler scooter in the area of P.S. Mansoorpur, District Muzaffarnagar, Uttar Pradesh, the offending vehicle, make Bolero, bearing No. HR-02-Y-5151 driven by Respondent No. 1, Sh. Lavi Kumar Jain, and owned by Respondent No. 2, Sh. Ravi Kumar which was being driven at a high speed, hit the two wheeler scooter because of which Yogesh @ Sahil suffered injuries while Mohit suffered fatal injuries. FIR No. 296/2019 under Sections 279/337/338/427/304A IPC was registered at Police Station Mansoorpur, District Muzaffarnagar, U.P.
3. The two aforesaid Claim Petitions were filed; first, MACT No.778/2019, on behalf of Yogesh @ Sahil claiming Compensation for the injuries suffered by him and the second, MACT No.780/2019 by the legal heirs of Mohit for claiming Compensation.
4. The learned Tribunal, in the impugned Judgments observed certain glaring aspects and believed it to be not genuine Claims and dismissed the Claim petitions.
5. Aggrieved by such dismissal, the present Appeals have been preferred. It has been argued that the criminal trial is ongoing in the Court in Muzaffarnagar. The factum of accident is fully established. The learned Tribunal without even recording the evidence, has concluded the accident to be suspicious. It is submitted that an opportunity should have been given to the Claimants/Appellant to bring true facts on record. It is therefore, submitted that the impugned Order be set aside and be remanded back for trial on merit.



6. Learned counsel on behalf of the Insurance Company submits that the Claims have been rightly dismissed as the Appellants failed to submit any cogent documents and the documents pertaining to the criminal trial; merely averments were made and the impugned Order does not suffer from any infirmity.

7. Learned counsel on behalf of the Insurance Company further submits that an independent enquiry into the accident was conducted and it was found that aside from the Scooty involved in the present case, another Scooty was also involved in the accident. There are various suspicious circumstances surrounding the accident and the Petition has been rightly rejected.

8. **Submissions Heard.**

9. The factum of accident having taken place on 23.07.2019 and the injuries being suffered by Yogesh @ Sahil and demise of Mohit is not in dispute.

10. The Learned Tribunal without conducting the trial had culled out the suspicious circumstances as under :-

- (i) that the Claim Petition has been filed in Delhi and not in Muzaffarnagar where the accident took place;
- (ii) the FIR has been registered at the instance of Ramesh Sharma but it is not clarified whether he was an eye witness;
- (iii) apparently the facts leading to the accident changed before the Tribunal and new facts were introduced;
- (iv) that only one Scooty was shown in the present case though as per the independent investigation carried out



by the Insurance Company it has come to light that the Case Dairy notes that two Scooties DL-7S-CF-1016 and DL-11-S-3486 were involved in the accident;

- (v) that the certified copy of the first MLC regarding the history has not been filed;
- (vi) that the mechanical inspection report of the other offending vehicle has not been placed on record;
- (vii) that the status of the criminal case before the Court of M.M., Muzaffarnagar has not been placed on record.

11. By observing these circumstances it was concluded, that the case is not free from doubt and suspicion and the Claim petitions were dismissed.

12. The various grounds which have been stated as creating a suspicion are not tenable. The Appellants/Claimants being resident of Delhi have filed the Claim Petitions in accordance with law. Merely because they have chosen to file the Claims in Delhi, cannot be treated as a suspicious circumstance. So far as the filing on record of the copies of the criminal record is concerned, the opportunity should have been granted to the Claimants, and in the very least the matter should have been taken till the stage of evidence. The witness from Muzaffarnagar could have been summoned to produce the documents. The helplessness of the Claimants in not being able to procure the criminal record, cannot be a ground to dismiss their Claim. Moreover, the obligation is also on the Insurance Company to place the documents pertaining to the criminal trial, on record.

13. Therefore, it is concluded that at least an opportunity should have been given to the Claimants to adduce evidence in support of the Claim Petitions.



14. In view of the same, the impugned Orders are hereby set aside and the case is remanded back to the learned Tribunal to decide the same on merits after recording the evidence, in accordance with law.
15. Parties are directed to appear before the learned Tribunal on 09.12.2024.
16. It is hereby clarified that the observations made herein, do not tantamount to expression on the merits of the case.
17. The Appeals are accordingly disposed of.

NEENA BANSAL KRISHNA, J

NOVEMBER 26, 2024

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