



\$~33

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **MAC.APP. 53/2025 & CM APPL. 3244/2025**
RELIANCE GENERAL INSURANCE CO LTD

.....Appellant
Through: Mr. Shounik Mazumdar &
Ms. Sabhyata Sharma,
Advs.

versus

T. LALHMANGAIHZAMA THROUGH LR R.
LALBIAKDIKI & ORS.Respondents
Through:

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER
20.01.2025

%

1. The present appeal is filed challenging the award dated 22.10.2024 (hereafter '**impugned award**'), passed by the learned Presiding Officer, Motor Accident Claims Tribunal, in MACT No.524/2020, essentially on the ground that the accident occurred due to contributory negligence of the deceased.

2. It is the case of the appellant that the offending vehicle was parked on the road, and the deceased, who was riding a motorcycle, hit the offending vehicle from the back while attempting to overtake another vehicle. It is stated that had the deceased not tried to overtake the other vehicle, he would have averted the accident and the present case is one where quantum of compensation ought to be deducted towards contributory negligence of the deceased.

3. A bare perusal of the impugned award shows that the said argument was raised before the learned Tribunal. The learned
MAC.APP. 53/2025

Page 1 of 3



Tribunal rightly rejected the said plea as being baseless by specifically noting that the offending vehicle was parked on the right side of the road without any safety measures for other road users. The learned Tribunal took into consideration the testimony of the injured witness (PW2) who stated that the offending vehicle was standing on road without any indicator/ parking light or any sign of being parked. It was also noted that PW2 had withstood the test of cross examination and he had not potrayed any signs of falsity.

4. Even if the case of the appellant insurance company is taken at the highest that the deceased was trying to overtake another car and hit the offending vehicle, which was parked on the right side, undisputedly, the overtaking of the vehicle is done from the right side. When a vehicle is suddenly found parked on the wrong side of the road without any indication or safety measures, no fault can be attributed to the person who was trying to overtake and hit the parked vehicle.

5. No evidence has been led by the appellant insurance company to show that the offending vehicle had been parked on the road with any reflectors or indicators to warn the other road users. In such circumstances, there is no reason to deduct any quantum from the awarded compensation towards contributory negligence.

6. The learned Tribunal also rightly noted that the FIR was registered pursuant to the accident and chargesheet has already been filed against the driver of the offending vehicle. It was noted that the same clearly establishes that the driver of the offending vehicle was negligent in parking the vehicle on the right side of the road without any safety measures.

7. The standard of proof in MACT proceedings is of
MAC.APP. 53/2025

Page 2 of 3



preponderance of probability and filing of chargesheet against the driver of the offending vehicle *prima facie* points towards his complicity in being rash and negligent [Ref. ***Mangla Ram v. Oriental Insurance Co. Ltd.*** : (2018) 5 SCC 656].

8. It is also pertinent to note that the insurance company was granted recovery rights on the basis of its argument that the driver of the offending vehicle was plying the same without any valid driving license and he was under the influence of alcohol.

9. Thus, the argument taken by the appellant insurance company is contradictory.

10. In view of the aforesaid discussion, this Court finds no merit in the arguments raised by the appellant and see no reason to interfere with the impugned award.

7. The appeal is, therefore, dismissed. Pending application also stands disposed of.

AMIT MAHAJAN, J

JANUARY 20, 2025

“SK”