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

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Date of Decision: 17.09.2025+ **MAC.APP. 322/2023**

NEW INDIA ASSURANCE CO. LTD

.....Appellant

Through: Mr. Salil Paul, Mr. Sahil Paul & Mr.
Sandeep Dayal, Advs.

versus

SUMAN GUPTA & ORS.

.....Respondents

Through: None.

CORAM:**HON'BLE MS. JUSTICE TARA VITASTA GANJU****TARA VITASTA GANJU, J.: (Oral)**

1. The present Appeal has been filed on behalf of the Appellant under Section 173 of the Motor Vehicle Act, 1988 impugning the judgment dated 28.03.2023 [hereinafter referred to as "Impugned Award"] passed by the Presiding Officer, MACT and Additional District Judge-01, North West, Rohini Courts, Delhi. By the Impugned Award, a compensation in the sum of Rs. 32,69,184/- has been awarded to the Respondent Nos. 1 to 5/Claimants along with interest at the rate of 6.5% per annum.

2. A Coordinate Bench of this Court by order dated 02.06.2023 had directed a stay on the Impugned Award, subject to deposit of the entire awarded amount along with up to date interest with the learned Tribunal. A further direction was passed by the Coordinate Bench that 75% of the deposited amount be released in favour of the Respondents/Claimants in accordance with scheme, as is set out in the Impugned Award.



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3. By an order dated 04.07.2025, this Court following directions were passed *qua* the Registry:

4. Learned Counsel appearing on behalf of the Appellant submits that the entire awarded amount inclusive of up-to-date interest was deposited with the Tribunal, however, he is not aware as to whether any amounts were withdrawn by the Respondent Nos. 1 to 5/Claimants.

5. The Registry is directed to obtain a report in this behalf. Let the report be placed on record before the next date of hearing.

3.1 No report has been given by the Registry till today.

4. Since, the Respondents failed to appear despite service and thereafter, were proceeded with *ex-parte*.

5. Learned Counsel for the Appellant restricts his challenge in the present Appeal to one contention. He submits that the case was not a death case but an injury case, in view of the fact that there was a gap between the time of the accident and the death of the deceased and no material has been placed to establish a direct nexus between the injuries sustained and the subsequent death.

6. A perusal of the Impugned Order shows that this aspect was raised by the Appellant and examined by the learned Tribunal. The learned Tribunal examined the evidence placed before it as well as the evidence of the doctor who had examined the deceased and gave a finding that the chances of survival of the deceased was minimum and hence it had no hesitation to observe that the deceased had died due to injuries sustained by him in the accident.

7. The learned Tribunal also found that the Respondents/Claimants were unable to show that the deceased was not suffering from the injuries



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sustained nor had been able to produce any other evidence in support of their contentions. Thus, it was held that the deceased had died to the injuries sustained by him.

8. The brief facts are that the deceased was travelling on a Motor Cycle along with his minor daughter. While he was riding the vehicle, a Tata Indigo Car being driven by the Respondent No.1 hit the Motor Cycle from the front side and due to the said collision, the deceased was flung in the air and fell down on the road landing on his head and sustained multiple injuries.

9. A review of the record reflects that PW3, Dr. Sanjeev Kumar Sharma, the doctor who treated the deceased, was examined before the tribunal. PW3 deposed that the deceased suffered head injuries, a fracture (Right Temporo Parietal Bones along with underline extra dura haematoma, dural tear and sub-dural haematoma with temporal haematoma) from the road accident. PW3 also deposed that when the deceased was discharged from the hospital, he was unconscious and was being fed with a tracheostomy tube. He also deposed that the condition of the deceased was serious and the injuries were dangerous and that he did not have much chances of survival. It is apposite to set out PW3's statement and cross examination below:

"I am summoned witness. I can identify the treatment record of patient Mr. Jugal Kishore, who had sustained head injury, fracture (Right Temporo Parietal Bones along with underline extra dura haematoma with dural tear and sub-dural haematoma with temporal haematoma) in a road traffic accident. He was admitted in Geetanjali Hospital on 05.07.2017. I am visited doctor and on call I saw the patient on 06.07.2017 and patient was admitted in different hospital i.e. Jeevan Sujata Hospital on 07.07.2017 and than patient was operated on 08.07.2017. Patient was discharged from that hospital on 18.07.2017 and was again admitted in Geetanjali Hospital on 19.07.2017. As per record patient was discharged from Geetanjali



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Hospital on 26.07.2017. As per record of discharge summary of 26.07.2017 patient was unconscious and on ryle's tube to feeding with tracheostomy tube present in situ. After seeing all the record of this patient, I can say patient condition was serious and injuries were dangerous. I cannot say that how much chances of survival of the deceased were there, however, chances were very minimum."

XXXXXX by Sh. Rajesh. Jagirdar, Counsel for R2/Ins. Co.

The deceased was re-admitted in Geetanjali Hospital after 26.07.2017 as per record and he was discharged on 14.08.2017. I have no record regarding readmission of the deceased in our hospital except the material already on record. I have brought the photocopy of the same which is now Ex. PW-3/1 (Colly) (79 sheets). I have no information regarding the death of the deceased. At the time of the admission the deceased, At the time of the admission the patient was having grievous hurt. It is wrong to suggest that the condition of the patient was not serious. It is wrong to suggest that I am deposing falsely."

[Emphasis Supplied]

9.1 As stated above, nothing contrary was brought on record by the Appellant/Insurance Company. The testimony of the PW3 was also unimpeached.

10. It is settled law that where a Tribunal had given a finding of causation, it is not for the High Court to disprove such finding without adequate reason. The Supreme Court in the case of **Ramathal & Ors. v. Managing Director, Cheran Transport Corpn¹, Coimbatore** has held that where the medical evidence, including the doctor's categorical statement, establish a clear nexus between the accident and the death, even though there was a gap of over a year and the Respondents failed to produce any material to disprove the link, the High Court erred in disconnecting the death from the accident without giving compelling reasons. Once, the

¹ (2003) 10 SCC 53



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Tribunal has given a finding on causation which was based on adequate evidence, it was not for the High Court to set it aside. The relevant extract of the ***Ramathal*** case is set out below:

11. The High Court although found that the deceased suffered serious injuries, but having regard to the fact that the death took place after one year and one month, it held to be unable to connect the injuries to the death. Analysing the evidence of the doctor of Palladam Government Hospital, it inter alia, stated that injuries being grievous, there was possibility of infection due to wounds and that brain was likely to be affected thereby resulting in the consequence of death. It was observed:

“Therefore, in the normal circumstances, these injuries would have definitely been cured if proper medical treatment had been given to the deceased. After reading Ext. PW 4 evidence we have no doubt in our mind that the death of Veerasamy was not due to the injuries suffered in the accident. As per the wound certificate, except Injury 5 i.e. fracture in the shoulder, the other injuries are simple in nature.”

15. Unfortunately, the High Court did not discuss the materials on record in detail. It is not in dispute that the deceased was an indoor patient from 14-1-1991 to 21-1-1991. He thereafter was being treated in the Government Hospital, Palladam. He died there. The medical certificate shows that the cause of the death was due to primary disease hypoxic encephalopathy and the immediate cause of death was due to cardiorespiratory arrest. The doctor examined on behalf of the claimants categorically stated that the accident might have been the cause of death of the deceased. The respondent did not bring any material on record to show that there was no link between the accident and the death. The finding of the High Court that there was no proper medical treatment and, therefore, cause of death is not attributable to the accident does not appear to be based on any material on record. In any event, it cannot be said to be the correct approach adopted by the High Court particularly when the Tribunal on the basis of the materials brought on record by the parties came to a contrary finding. No strong and cogent reason has been assigned by the High Court in support of its judgment reversing the findings of the Tribunal. It accepted the submission made on behalf of the respondent herein without analysing the materials and without arriving at a clear finding of fact.

[Emphasis Supplied]

11. Undisputably, the evidence on record including the fact reflects that



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the deceased sustained several injuries on his head as a result of the accident and was hospitalised for almost 7 months, when released from the hospital, was unconscious and was being fed with a tube. The condition of the deceased was stated to be serious with slim chances of survival.

12. The Appellant did not lead any evidence before the learned Tribunal to rebut the testimony of PW3, Dr. Sanjeev Kumar Sharma, or to challenge the medical record. The findings of the Tribunal, therefore, rest upon the uncontroverted medical evidence establishing that the deceased had suffered grievous and life-threatening head injuries in the road accident. In the absence of any contrary material, the Tribunal rightly concluded that the death of the deceased occurred as a result of the injuries sustained in the said accident. It is apposite to extract the relevant portion of the Impugned Award below:-

“14. Dr. Sanjeev Kumar Sharma, Geetanjali Hospital, Aligarh has been examined as PW3 who has testified that he can identify the treatment record of deceased, who had sustained head injury, fracture (Right Temporo Parietal Bones alongwith underline extra dura haematoma with dural tear and sub-dural haematoma with temporal haematoma) in a road traffic accident. He testified that deceased was admitted in Geetanjali Hospital on 05.07.2017 and he was a visiting Doctor on call, and had seen the patient/deceased on 06.07.2017 and patient/deceased was admitted in different Hospitals i.e. Jeevan Sujata Hospital on 07.07.2017 where deceased was operated on 08.07.2017. The deceased was discharged from that hospital on 18.07.2017 and was again admitted in Geetanjali Hospital on 19.07.2017. As per, record patient/deceased was discharged from Geetanjali Hospital on 26.07.2017. As per record of discharge summary dated 26.07.2017, the deceased was unconscious and on ryles tube to feeding with tracheostomy tube present in situ. Witness testified that after seeing the record of the deceased, he can say that the condition of deceased was serious and injuries were dangerous. He testified that he could not say that how much chances of survival of the deceased were there, however, the same were very minimum.



15. In cross-examination, witness testified that deceased was readmitted in Geetanjali Hospital after 26.07.2017 as per record and he was discharged on 14.08.2017. He has no record regarding readmission of the deceased in his hospital except the material already on record. He has brought the photocopy of the same which is Ex.PW-3/1. He testified that he has no information regarding the death of the deceased. He testified that at the time of the admission the patient was having grievous injuries. He denied that the condition of the patient was not serious.

16. Thereafter petitioners evidence was closed and matter was listed for recording of respondents evidence. However, on the statement of Id. Counsel for respondent no.2, respondents evidence was closed.

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36. With the above said proposition of law, I would like to advert to the facts of the present case. From the mandate of law laid down by superior courts, it can be safely concluded that the deceased died on account of injuries sustained by him in the said accident in as much as the petitioner has proved the discharge slip of the hospital as Ex. PW/1 (colly) which contains the following relevant details which are reproduced as under :

"operated by Dr. Sanjeev Sharma Meh on 08.07.2017 at Jeevan Hospital and again readmitted in this Hospital on 19.07.2017 and treated thereafter Head injury C # Rt. Temporo ociepitio epidural hematoima overlying(R) Temporo parietal region"

37. It may be noted that the said Dr. Sanjeev Kumar Sharma, has been examined as PW3, and he has deposed as under :

"I am summoned witness. I can identify the treatment record of patient Mr. Jugal Kishore, who had sustained head injury, fracture (Right Temporo Parietal Bones alongwith underline extra dura heamatoma with dural tear and sub-dural haematoma with temporal heamotoma) in a road traffic accident. He was admitted in Geetanjali Hospital on 05.07.2017. I am visited doctor and on call I saw the patient on 06.07.2017 and patient was admitted in different hospital i.e. Jeevan Sujata Hospital on 07.07.2017 and than patient was operated on 08.07.2017. Patient was discharged from that hospital on 18.07.2017 and was again admitted in Geetanjali Hospital on 19.07.2017. As per record patient was discharged from Geetanjali Hospital on 26.07.2017. As per record of discharge summary of 26.07.2017 patient was



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unconscious and on ryle's tube to feeding with tracheostomy t/~be present in situ. After seeing all the record of this patient I can say patient condition was serious and injuries were dangerous. I cannot say that how much chances of survival of the deceased were there, however, chances were very minimum."

In cross-examination nothing could be elucidated by Id. Counsel for the respondents that the deceased was not suffering from such injuries, and his chances of survival are minimum.

However, the witness Dr. Harish Kumar Sharma has categorically stated that the chances of the survival of the deceased were minimum. Therefore, in view of the impeccable evidence of the Doctor/PW3, this tribunal has no hesitation to observe that the deceased Has died due to the injuries sustained by him in the said accident."

[Emphasis Supplied]

13. Given the nature and the manner of the accident and the fact that the Appellant has been unable to show any document or evidence to the contrary, this Court does not find any reason to interfere with the Impugned Award.

14. The Appeal is accordingly dismissed.

14.1 The statutory amount deposited by the Appellant/Insurance Company shall be paid to the Respondents in addition to the amounts already awarded, as costs for the Appeal.

15. The parties will act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

SEPTEMBER 17, 2025/r/su