



2025:DHC:5940



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

% ***Date of Decision: 11.07.2025***

+ **MAC.APP. 423/2025 & CM Appl.40469/2025**

SMT KANTA & ORS.

.....Appellants

Through: Mr. S.N. Parashar and Mr. Ritik
Singh, Advs.

versus

SH SUJEET KUMAR & ORS.

.....Respondents

Through:

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

TARA VITASTA GANJU, J.: (Oral)

CM Appl.40468/2025/Seeking condonation of delay in filing/

1. This is an Application filed on behalf of the Appellant seeking condonation of delay of 77 days in filing the present Appeal.
2. For the reasons as stated in the Application, the delay is condoned.
3. The Application stands disposed of.

MAC.APP. 423/2025

4. The present Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988 impugning the award dated 17.12.2024 passed by the learned Presiding Officer, MACT-02, District Shahdara, Karkardooma Courts, Delhi [hereinafter referred to as "Impugned Award"]. By the Impugned Award, the Claim Petition filed by the Appellants has been



2025:DHC:5940



dismissed.

5. The learned Tribunal has found that the Petitioners led no material on record to show a proof that the accident was indeed caused by the motorcycle bearing registration no. DL-3SBV-3651 and was being driven at a very high speed in a rash and negligent manner. The learned Tribunal has also found that there were apparent contradictions between the pleadings and the evidence led by the Petitioners and thus, held that the Petitioners have failed to discharge the onus of proof.

6. Learned Counsel for the Appellants submits that the accident was not caused by the vehicle as was set out initially in the FIR. He submits that the circumstances of the case were that on 12.07.2019, the Appellant No. 2 was returning to his house along with his father [since deceased] after completing admissions formalities in college on his scooter. While he was exiting from the college, another vehicle being a motorcycle which was being driven by Respondent No. 1 came at a very high speed, rash and negligent manner and hit the scooter of the Appellant No. 2. On account of the accident, both the Appellant No. 2 as well as his father fell down and sustained grievous injuries. The father of Appellant No. 2 sustained injuries on head and ultimately died on account of the accident during the course of his treatment in the hospital.

6.1 Learned Counsel for the Appellants further submits that initially the registration number of the motorcycle that was given was the number mentioned above, that is, DL-3SBV-3651. However, thereafter on 18.07.2019, the Appellant No. 2 had gone to the police station and given a



2025:DHC:5940



statement that the registration number given earlier was wrongly given. The new registration number of the offending vehicle was DL-5SBV-3651. Subsequently, the investigation was conducted by Investigating Officer (IO) based on new and correct vehicle number.

6.2 Learned Counsel for the Appellants further submits that a CD along with photographs of the accident was also given to the IO at the Batlab Police Station in support.

6.3 Learned Counsel for the Appellants, however, fairly concedes that this aspect of the matter was not brought to the notice by the Counsel appearing before the learned Tribunal.

6.4 Learned Counsel for the Appellants further submits that the reason for non-grant of any compensation is only on account of the earlier incorrect vehicle number given earlier. It is averred that correct number was given to the IO in a short period of accident itself. Reliance is placed on the case diary of IO dated 18.07.2019 in this behalf. It is apposite to set out the English translation of the case diary which is below:

*“Description: The plaintiff of the above case Mehul Suneja son of Sunil Suneja resident of House No. **83 A Gopal Park, Delhi is present at Batlab Police Station.** Statements recorded after interrogation. The plaintiff Mehul Suneja son of Sunil Suneja. Suneja resident of House No. 83 A Gopal Park, Delhi, on being asked, said that **I had come with my father to Indraprastha College on 08/06/19 for admission.** At 02:30 pm, when we were coming out of the **college, Gate No. 2 by our Activa Scooter, a bike came from inside the college at a high speed and hit my Activa.** Due to which my father Sunil Suneja got injury on head. The students of the college helped me to admit my **father to Yashoda Hospital in their car. My father died on 13/06/2019 during treatment at the Trauma Center, AIIMS Hospital, Delhi.** **The number of motor cycle which hit us was DL5SBV365.** **We parked that motorcycle and our scooty under the custody of the College Security Guard. We took photo of the motorcycle through***



*my mobile and giving its photocopy to you. The driver of the bike fled away from the spot. I was scared at that time and **the bike number was mistakenly written wrong in the FIR, please correct it. The CD with photo is being attached.***

[Emphasis supplied]

7. An examination of the Case Dairy of the investigation reflects that the factum of initially an incorrect number of the offending vehicle being given is recorded therein. It further records that the driver of the motorcycle had fled from the spot. It also records that the motorcycle registration number was mistakenly given earlier in the FIR but now a CD containing photograph of the accident was also supplied to the IO.

7.1 Learned Counsel for the Appellants further submits that in this view of the matter, on account of the error by the Counsel appearing before the learned Tribunal, the Appellants should not be made to suffer.

8. Concededly, this evidence has not been examined by the learned Tribunal since it was not brought to the notice of the learned Tribunal. In view thereof, this Court deems it apposite to set aside the Impugned Award with the directions to the learned Tribunal to examine the matter afresh including the efficacy of evidence that has been sought to be placed on record before this Court.

8.1 It is, however, clarified that the remand is only with respect to the examination of the case diary as well as the details provided by the learned Counsel for the Appellants to the investigating officer.

9. Given the fact that the case was filed in the year 2020, the learned Tribunal is requested to dispose of the matter within a period of six months



2025:DHC:5940



from today.

10. The parties shall appear before the learned Tribunal on 04.08.2025.

10.1 The Registry is directed to send a copy of the order passed today to the Respondents within a week.

11. The Appeal is disposed of in the foregoing terms. The pending Application also stands closed.

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

TARA VITASTA GANJU, J

JULY 11, 2025/r/jn