$~12

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

***Decided on: 24.12.2025***

\+ MAC.APP. 435/2024

MAGMA HDI GIC LTD .....Appellant
Through: Mr. Vaibhav Verma and Mr. Ved Vyas Tripathi, Advocates.

versus

POONAM KUMARI & ORS. .....Respondents
Through: Mr. Prateek Kumar, Advocate for respondents.

**CORAM:**
**HON'BLE MR. JUSTICE PRATEEK JALAN**

**PRATEEK JALAN, J. (ORAL)**

**CM APPL. 82225/2025** *(for early hearing)*

This application has been filed by respondent Nos. 1 to 4 for early hearing of the appeal.

With the consent of learned counsel for the parties, the application is allowed, and the appeal is taken on Board.

The application stands disposed of.

**MAC.APP. 435/2024**

1. This appeal has been filed by the appellant – Magma HDI General Insurance Company ["the Insurance Company"] against an award dated 15.04.2024, passed by the Motor Accident Claims Tribunal ["the Tribunal"] in MACT No. 955/2022, arising out of the death of Mr. Rahul Kumar in a road accident on 11.07.2022.

2. I have heard Mr. Vaibhav Verma, learned counsel for the Insurance

Company, and Mr. Prateek Kumar, learned counsel for the claimants.

3. Only one ground of appeal is urged by Mr. Verma - that the Tribunal has erroneously computed loss of dependency of the claimants, by assessing the income of the deceased on the basis of minimum wages in Delhi. He submits that the deceased was admittedly a resident of Bihar, and minimum wages prevalent in the State of Bihar ought to have been taken.

4. As no challenge has been made to the findings of the Tribunal with regard to the facts of the accident, or rash and negligent driving on the part of the insured vehicle [truck bearing Registration No. UP-19T-8827], it is unnecessary to advert to those facts in detail. Suffice it to note that the deceased was walking towards Shop No. B-721, New Subzi Mandi, Azadpur, Delhi, at about 8:20 AM on 11.07.2022. When he was near Shop No. B-719, he was struck by the insured vehicle, which reversed into him. As a result of the accident, the deceased was crushed between the wall and the vehicle. He was taken to Vinayak Hospital Model, Derawal Nagar, Delhi, where he succumbed to his injuries during treatment.

5. As far as employment of the deceased is concerned, Mr. Verma points out that his Adhar Card bore the address of Village Chiraia, Nawada, Sambey, Bihar [Exhibit PW-1/1]. The same address was recorded in the death certificate [Exhibit PW-1/2], both as his present address and his permanent address.

6. Although the claimants had asserted that the deceased was working as a Munshi/Clerk at Shop No. 205, B-Block, New Subzi Mandi, Adarsh Nagar, Delhi, and earning a salary of Rs.23,000/- per month, the Tribunal

found no evidence in support of quantum of salary and, therefore, assessed loss of dependency on the basis of minimum wages of matriculate in the State of Delhi, i.e. Rs. 19,473/-.

7. As against the documentary evidence referred to above, Mr. Kumar relies upon the oral evidence of the wife of the deceased – Ms. Poonam Kumari [Respondent No. 1 herein], and the employer of the deceased – Mr. Sonu Kumar, who both testified before the Tribunal as PW-1 and PW-2 respectively.

8. Ms. Poonam Kumari filed an affidavit of evidence in which she stated as follows:

> "*3. That my husband Rahul Kumar was 27 years old at the time of accident. He was working as a Munshi/Clerk at Shop No.B-719, New Subzi Mandi, Azadpur, Delhi. He was getting salary of Rs.23,000/- p. m. and was leading a peaceful and comfortable life with his family. Had he not died in this accident his income would have been more than doubled which was increasing with the passage of time. He was 10th pass from Bihar School Examination Board.*"

9. In the cross-examination, she admitted that she did not live in Delhi, but reiterated that her deceased husband was residing in Delhi on rent. She was not aware of the exact address of his residence, and had no document in support of this plea. She denied the suggestion that he was neither working nor residing in Delhi.

10. Significantly, Mr. Sonu Kumar, the employer of the deceased, also gave evidence before the Tribunal. He stated that he was a fruit seller by profession, running a shop in the name and style of "*Papita Merchants & Order Supplier*", where the deceased was working as a Clerk/Munshi. He specifically testified that he permitted the deceased to live in the shop itself, and also claimed to be paying him a monthly salary of Rs. 23,000/-

in cash. In the course of his cross-examination, he volunteered that his was a small business, and appointment letters were not issued to any employee, and that he did not charge any rent from the deceased for staying in his shop, but asserted that the deceased was employed with him since March 2019. He declined the suggestion to the contrary.

11. Having regard to the fact that the Tribunal is duty bound to arrive at a finding on the preponderance of probabilities, and is not bound by strict rules of pleadings and evidence, I do not find any reason to interfere with the Tribunal's finding on this aspect. The accident occurred in New Subzi Mandi, Azadpur, Delhi, itself where the deceased was stated to be employed. It is not always possible to insist upon provision of documentary evidence in the form of appointment letters, salary slips, etc., in cases such as this, where the employment is in the informal sector. The evidence must be looked at holistically. In the present case, the evidence of the wife of the deceased was corroborated by the testimony of the employer himself. The evidence of these witnesses, coupled with the fact that the accident occurred at the very location of his stated employment, leads me to accept the claimants' case on the standard of preponderance of probabilities.

12. It may be noted that the Tribunal has not accepted the claimants' assertion as to the quantum of income. In the absence of any documentary evidence, and in view of the entire payment being stated to have been made in cash, the Tribunal assessed compensation on the basis of minimum wages prevalent in Delhi, as applicable to a matriculate. I am of the view that this was the correct approach.

13. As no other ground has been raised in the appeal, the appeal is

dismissed.

14. By an interim order dated 02.09.2024, operation of the award was stayed, subject to deposit of the awarded amount, alongwith up-to-date interest before this Court.

15. The Tribunal has not given any direction for disbursement in the impugned award. As a consequence of this judgment, and having regard to the fact that the accident occurred more than three years ago, the Registry is directed to release 10% of the deposited amount, alongwith *pro-rata* up-to-date interest, to respondent No. 1, at this stage. The balance amount be transferred to the Tribunal.

16. The claimants may approach the Tribunal on 03.02.2026, for directions as to the apportionment and disbursement of the amount. The amount released to respondent No.1, under this order, will be adjusted against her entitlement, as adjudicated by the Tribunal.

17. The appeal is disposed of in these terms.

18. The next date of hearing, i.e. 23.04.2026, stands cancelled.

19. Statutory deposit, if any, be refunded to the Insurance Company.

**PRATEEK JALAN, J**

**DECEMBER 24, 2025**
SS/AD/