



2026:DHC:1373



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Date of decision: 17th February 2026+ MAC.APP. 95/2019

AARTI & ORS

.....Appellants

Through: Mr. S.N. Parashar, Advocate.

versus

RAJBIR SINGH & ORS (THE NEW INDIA ASS CO
LTD)

.....Respondents

Through: Ms. Shruti Jain, Mr. Pankaj Seth,
Ms. Vijay Laxmi, Advocates for
Respondent No.3.**CORAM:**
HON'BLE MR. JUSTICE ANISH DAYAL**JUDGMENT****ANISH DAYAL, J (ORAL)**

1. This appeal has been filed by the claimant against the Judgment dated 28th September 2018 passed by the Motor Accident Claims Tribunal, Karkardooma Courts, Delhi (*MACT*) in DAR No.121/2018 titled as "*Aarti & Ors. v. Rajbir Singh & Ors.*", treating the claim petition of petitioner filed under *Section 166 of Motor Vehicles Act, 1988* (*MV Act*) as one under *Section 163A of MV Act* for computing the loss of dependency, and calculating compensation in terms of the notification

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of *Ministry of Road Transport and Highway* No. S.O. 2022(E) dated 22nd May 2018.

2. The deceased, *Shiv Charan*, was working as a conductor in bus no. UP-16CT-5048. On 28th March 2018, at about 9.30 p.m., while on board the bus near *Main Wazirabad Road, Brijpuri T Point*, the deceased fell down from the bus after the bus driver/respondent no.1 took a sharp turn and applied sudden brakes. As driver/respondent no.1 continued driving, the deceased was run over by the tyre of the bus. He suffered fatal injuries and was declared brought dead at *Guru Teg Bahadur Hospital*. The legal heirs/appellant nos.1-4, filed their case for compensation under *Section 166 MV Act* before the MACT.

3. Respondent no.1 & 2 (*driver and owner*) filed written statements denying negligence and liability. Respondent no.3/*Insurance Company* admitted that the vehicle was insured but disputed certain aspects of the claim. Evidence was led by the parties and MACT held that rash and negligent driving had not been proved and treated the petition filed under Section 166 of the MV Act as one under Section 163A of the MV Act. Accordingly, the MACT directed the Insurance Company to deposit Rs.5,00,000/- along with interest at the rate @ 9% per annum.

4. *Mr. S. N. Parashar*, counsel for appellant, states that the MACT was amiss in *suo moto* treating the petition as one under Section 163A without any application being moved by the claimant. Notwithstanding the same, he has placed the following submissions before the Court to contend that the evidence that was before the MACT would clearly lead



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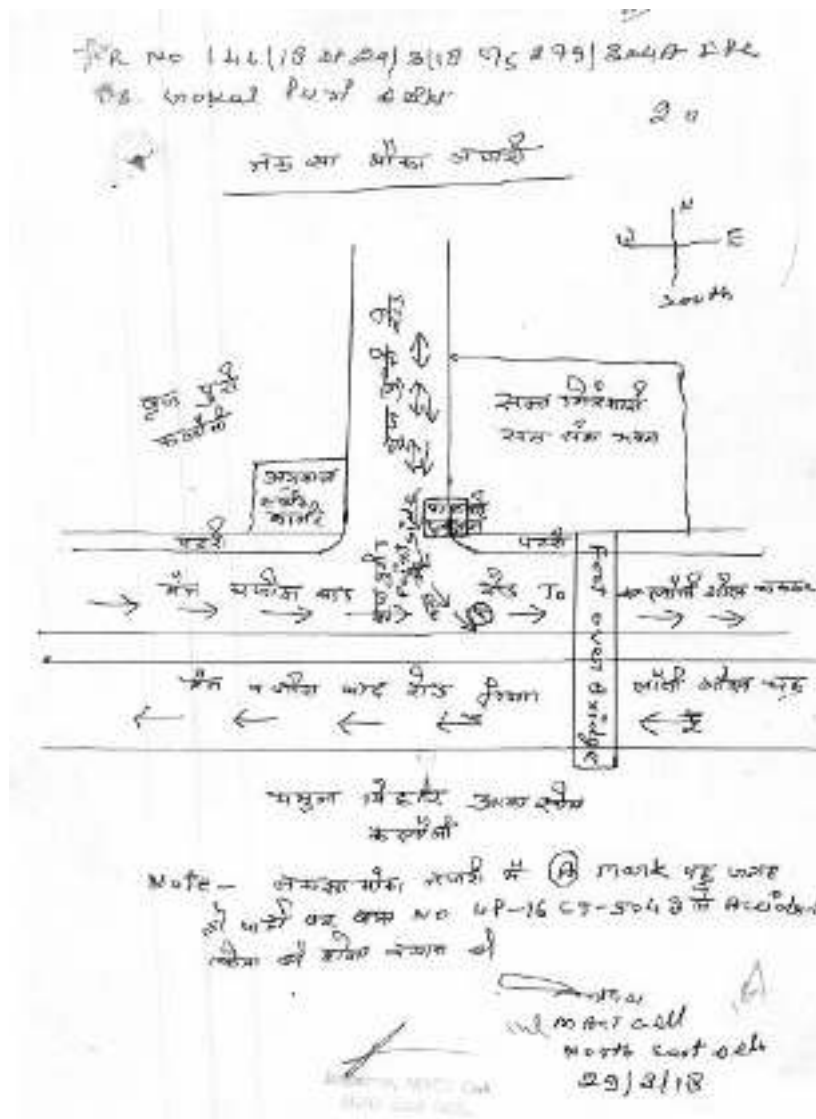
to the conclusion that there was negligence on the part of respondent no.1/driver:

4.1. FIR No. 146/18 was registered at the behest of one *Irshad*, s/o *Mukeem Khan*, whose statement as a complainant was recorded in the FIR. He states that he worked at the *paan/beedi* shop at *Brijpuri Chowk*. On 28th March 2018, he was present at the shop and about 9 o'clock, when the bus bearing registration no. UP-16CT-5048 was being driven by the driver towards *Mustafabad* in high speed, rashly and negligently. The driver took a sharp turn on the left side from *Wazirabad Road* to *Loni Golchakkar* and then applied sudden brakes, causing the person/conductor, who was at the front gate to fall down. In the meantime, the driver continued to drive the bus and person/conductor came under the side tyre of the bus and suffered grievous injuries. The driver then stopped the bus and *Irshad* then ran to the site of the accident where other people had also gathered. He states that somebody else made the call to the Police Control Room ('PCR'). The police arrived and the driver named *Rajbir* was apprehended by the police. Thereafter, he accompanied the injured to the said hospital where he passed away and the statement was recorded.

4.2. The site plan, extracted below, shows the bus coming from *Brijpuri Road* and turning left towards *Loni Golchakkar*. It also shows that at one corner there was a *paan* shop, while in the opposite corner, there was *Aggarwal Sweets* shop. The point of the accident is near where the left turn was taken at point 'A'.



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4.3. A statement was made by *Dheeraj Sharma*, owner of the bus, pursuant to Notice under Section 133 of the MV Act, where he states that he was the owner of the said bus and it was being driven by *Rajbir Singh* at the time of the accident, who had already been apprehended by the police.

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4.4. Testimony of **PW3/Irshad** before the MACT was similar to the statement in FIR as noted above, confirming that he had seen the accident and the FIR had been registered on his statement.

4.5. Testimony of **PW4/Ashok Solanki**, who was also an eye-witness, stated that he was at *Aggarwal Sweets* shop at the *Brijpuri T Point* where he saw a bus bearing registration no. *UP-16CT-5048* driven by driver at a very high speed in a zigzag manner taking a sharp turn towards *Loni Golchakkar* and then suddenly braked, due to which, the conductor of the bus fell down the bus and came under the left wheel of the bus. As a result, conductor/*Shiv Charan* sustained grievous injuries and was taken to GTB hospital. He stated that after the accident, the driver stopped the bus after resistance and other people who gathered, and disclosed his name as *Rajbir Singh*. **PW4** stated that he dialed 100 number and informed the police regarding this accident and his statement was thereafter recorded.

5. *Mr. Parashar*, on this basis, states that the evidence was quite clear before the MACT of the two eye-witnesses and was fully consistent and corroborated by the site plan as well. He further states that the FIR was registered at the behest of *Irshad* whose statement was recorded and FIR has resulted in a charge-sheet thereafter. Therefore, there was no occasion for the MACT to have ignored these aspects and converted a Section 166 petition into 163A petition of no-fault liability.

6. *Ms. Shruti Jain*, counsel for respondent no.3/Insurance Company, however, counters this by pointing out to the cross-examination of **PW3**,



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where *Irshad* states that, at the time of the alleged incident, some customers were gathered at his shop for purchasing and he was dealing with them and he affirms that he did not know what happened “*inside the bus*”. He further states that he could not say who was responsible for the accident as he only saw the dead body after the accident.

7. On this basis, *Ms. Shruti Jain* contends that *Irshad* is not a reliable witness since he confirms that he did not see who was responsible for the accident and was busy with his customers and, therefore, was a planted witness. She further contends that, on this basis, the testimony of *Irshad* was correctly not considered as credible by the MACT.

8. Further, *Ms. Shruti Jain*, draws attention to the analysis made by the MACT in *paragraph no.8* of the Award, where the MACT notes that testimony of PW4/*Ashok Solanki* was recorded after 20-25 days and, therefore, was not trustworthy. The statement of the Investigating Officer (*‘IO’*)/ **PW2** also notes that no eye-witness met him in the hospital when he had visited and, therefore, the MACT is also of the opinion that *Ashok Solanki* was a procured eyewitness.

9. In the opinion of this Court, however, the evidence on record warranted a different conclusion. Not only was *Irshad’s* testimony consistent, but his location at the *paan/beedi* shop also provided an excellent vantage point from which he could witness the accident. He remained consistent with his narrative as the complainant in the FIR.

10. Moreover, the testimonies of *Irshad* and *Ashok Solanki’s* are thoroughly consistent. While *Irshad* states that somebody had called the



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PCR, *Ashok Solanki*, in fact, admits that the PCR call at 100 was made by him. Both have identified the bus number and also concluded that the driver was made to stop and he disclosed his name there itself and was apprehended by the police.

11. The testimony of the I.O. is also relevant in this regard, who deposed as **PW2**. He states that he recorded the statement of complainant *Irshad* who is eye-witness and lodged the FIR and also recorded the statement of *Ashok Solanki*, who dialed 100 number and was also an eye-witness of the accident. The I.O. states that he arrested the driver at the instance of eye-witness/*Irshad*, prepared the site plan and seized the offending vehicle. There is nothing in the cross-examination by the Insurance Company to suggest otherwise. In fact, the I.O. rebuts the suggestion that *Ashok Solanki* and *Irshad* were planted eye-witnesses and that a false DAR was registered.

12. Moreover, the testimonies fully corroborate with the site plan, which the Court has perused. The identification of the driver has also been confirmed by the owner of the vehicle, in response to the Notice under Section 133 of the MV Act.

13. Reliance by counsel for Insurance Company, on the cross-examination of *Irshad* as **PW3**, would not come to their benefit, considering that it is natural for a person working at a *paan/beedi* shop to be dealing with his customers, but it was quite possible for him to have witnessed a speeding bus taking a sharp turn, braking suddenly and a man falling off. When he says he did not know what happened *inside the*



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bus, he was possibly right since he was externally located and could only see as to what happened *outside the bus*.

14. Further, when *Irshad* stated that he could not say who is responsible for the accident, as he saw the dead body, that also corroborates his statement that he went to the spot and then the deceased was taken to the hospital from there. There is nothing which is inconsistent in the testimony for the MACT to have dismissed it.

15. It is well settled by a catena of judgments of the Supreme Court that claims under the Motor Vehicles Act are to be established on the touchstone of preponderance of probabilities and not beyond reasonable doubt. Where the evidence renders one version more probable than not, the claimant's burden stands discharged. Reliance in this regard may be placed on the judgment of ***Bimla Devi v. Himachal RTC***, (2009) 13 SCC 530, which was subsequently followed in ***Geeta Dubey v. United India Insurance Co. Ltd.***, 2024 SCC OnLine SC 3779. The relevant paragraph of ***Bimla Devi*** (*supra*) is extracted as below:

“15. In a situation of this nature, the Tribunal has rightly taken a holistic view of the matter. It was necessary to be borne in mind that strict proof of an accident caused by a particular bus in a particular manner may not be possible to be done by the claimants. The claimants were merely to establish their case on the touchstone of preponderance of probability. The standard of proof beyond reasonable doubt could not have been applied. For the said purpose, the High Court should have taken into



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consideration the respective stories set forth by both the parties.”

(emphasis supplied)

16. Upon careful appreciation of the evidence, this Court finds that the claimants have proved their case on the touchstone of preponderance of probabilities. Accordingly, the issue of rash and negligent driving by driver *Rajbir Singh* is decided in favour of the claimants and against the respondents.

17. Accordingly, the matter is remanded back to the MACT for determination of compensation, basis any documents which may be filed by the respective parties.

18. It is made clear that this Court has not expressed any opinion on the issue of compensation and it is open for the MACT to determine the same on the basis of submissions and documents of the parties.

19. For the said purpose, list before MACT on 10th March 2026.

20. The appeal is disposed of with the aforesaid directions. Pending applications, if any, are rendered infructuous.

21. Statutory deposit, if any, be refunded to the appellant.

22. Judgment be uploaded on the website of this Court.

**ANISH DAYAL
(JUDGE)**

FEBRUARY 17, 2026/ak/zb

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