



2026:DHC:1432



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

*Date of decision: 09<sup>th</sup> February 2026*

+ **MAC.APP. 132/2019**

SUNITA & ANR

.....Appellants

Through: Mr. Anshuman Bal, Adv

versus

NEW INDIA ASSURANCE CO LTD & ANR .....Respondents

Through: Mr. JPN Shahi, Advocate for R-1

**CORAM:**

**HON'BLE MR. JUSTICE ANISH DAYAL**

**JUDGMENT**

**ANISH DAYAL, J: (ORAL)**

1. This appeal has been filed by claimant [*appellant herein*] challenging the dismissal of claim petition by the Motor Accident Claims Tribunal, Karkardooma Court, New Delhi [*“Tribunal”*] *vide* judgement dated 27<sup>th</sup> November 2018 in *MACT No.126/2018* [*“impugned award”*].

**Incident**

2. On 06<sup>th</sup> March 2018, at about 01:45 A.M., *Sh. Radhey Shyam* [hereinafter referred to as *“deceased”*] was travelling on a motorcycle from *Baghpat* to *Sonia Vihar*, when, upon reaching *Pooja Colony Cut, Loni, Ghaziabad*, a vehicle bearing no. ‘*HR-26DF-1028*’, being driven in a rash and negligent manner, hit the motorcycle of the deceased, as a result of which he fell down, suffered grievous injuries, and succumbed thereto.

3. Deceased post-mortem was conducted at the *District Hospital*,



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*Ghaziabad, Uttar Pradesh, and FIR No. 143/2018 dated 06<sup>th</sup> March 2018 under Sections 279/338/304A of the Indian Penal Code 1860 [“IPC”] was registered at Police Station Tronica City, Ghaziabad, Uttar Pradesh, against respondent No.2.*

4. Deceased was married and was survived by his wife [*Sunita/appellant no.1 herein*] and minor child [*Ravi Kumar/appellant no.2 herein*], who, being the sole legal heirs, filed a claim petition under Sections 166 and 140 of the Motor Vehicles Act, 1988 [“*MV Act*”] before the Tribunal, claiming compensation of Rs.50,00,000/- on account of *loss of dependency, future and prospective income, loss of human life, care and support in old age*, and for the *pain, suffering, mental shock, agony, and hardship* suffered by the appellants due to the death of *Sh. Radhey Shyam*.

5. Respondents were duly summoned, respondent no.2/*driver* and the respondent no.1/*Insurance Company* filed their respective written statements, and issues were framed by the Tribunal on 06<sup>th</sup> September 2018. In support of their case, appellants examined *Smt. Sunita [PW-1]*, who deposed by way of affidavit [**Exhibit PW1/A**] regarding the income, occupation, and legal heirs of the deceased; *Sh. Nandram [PW-2]*, deposed by way of an affidavit [**Exhibit PW2/A**] as to the manner and occurrence of the accident; *Sh. Prahlad Bhatt [PW-3]*, proved the salary, service, and increment records of the deceased [**Exhibit PW3/2**]; and Sub Inspector *J.P. Upadhyay [PW-4]*, proved the chargesheet [**Exhibit PW1/6**] and the investigation; however, the claim petition filed by the appellants came to be dismissed by the Tribunal

### **Impugned Award**

6. Tribunal in the impugned award dismissed the claim petition filed under Sections 166 and 140 of the MV Act, holding that the appellants had



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failed to establish that the accident occurred due to rash and negligent driving of the offending vehicle bearing no. 'HR-26DF-1028'. The Tribunal proceeded on the premise that proof of negligence is a *sine qua non* for grant of compensation under Section 166 of the MV Act and that the burden to prove such negligence lay squarely upon the claimants.

7. While appreciating the evidence, the Tribunal observed that appellant no.1 [PW-1], wife of the deceased, was not an eyewitness to the accident and had received information regarding the incident second-hand. With respect to *Sh. Nandram*, PW-2, who was examined as an eyewitness, the Tribunal found his testimony to be unreliable, noting material inconsistencies between the initial complaint, which referred to a tractor-trolley as the offending vehicle, and the subsequent deposition attributing the accident to a car. The Tribunal further noted that *Sh. Nandram*, PW-2, had neither informed the police, nor taken the injured to the hospital, nor lodged the FIR, and that his presence at the site of the accident was not satisfactorily established.

8. The Tribunal further held that the mere registration of an FIR and filing of a chargesheet were not, in themselves, sufficient to establish negligence, even on the standard of preponderance of probabilities. Relying upon judicial precedents, the Tribunal concluded that, in the absence of cogent and reliable evidence proving rash and negligent driving on the part of respondent no.1/driver, the claim petition could not be sustained. Consequently, *issue no.1* relating to negligence and *issue no.2* relating to entitlement to compensation were both decided against the claimants, and the claim petition was dismissed.

### Analysis

9. *Mr. Anshuman Bal*, counsel appearing on behalf of



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claimants/appellants, states that the Tribunal failed to appreciate the fact that an FIR had been lodged, the statement of *Mr. Nandram*, eyewitness [PW-2] had been recorded, and pursuant thereto a chargesheet had been filed against the driver of the offending vehicle. He further contends that once the issue of negligence was already proved post investigation, by filing chargesheet, there was no reason why the claims were not considered or at the very least, assessed by the Tribunal.

10. For this, counsel for appellant relies on decisions of the Supreme Court in *Ranjit & Anr. v. Abdul Kayam Neb & Anr.* 2025 SCC OnLine SC 497 and *Meerabai & Ors. v. ICICI Lombard* 2025 SCC OnLine SC 992, wherein it has been held that even in the absence of direct eyewitnesses, but an FIR has been lodged and the chargesheet has been filed against the owner driver of the offending vehicle, the Court was of the opinion that there could be no finding that negligence was not established.

11. By order dated 1<sup>st</sup> September 2023, Court Notice had been issued to respondent no.2/driver; however, none appeared despite service.

### **Conclusion**

12. In this view of the aforesaid, this Court is of the opinion that the matter requires reconsideration by the Tribunal. The Tribunal shall reassess the issue of negligence on the basis of the evidence already on record, uninfluenced by its earlier findings *vide* impugned award dated 27<sup>th</sup> November 2018, and thereafter proceed to determine the compensation, if so payable to the claimants, in accordance with law.

13. Accordingly, the matter is remanded back to the Tribunal and the impugned award dated 27<sup>th</sup> November 2018 is set aside.

14. Accordingly, list before MACT on 10<sup>th</sup> March 2026.



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15. The appeal is allowed and disposed of.
16. Pending applications (if any) shall be rendered as infructuous.
17. Statutory deposit (if any) shall be refunded to appellant.
18. Judgement be uploaded on the website of this Court.

**ANISH DAYAL, J**

**FEBRUARY 9, 2026/sm/tk**