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

\# **CNR No. DLHC010105402018**

\+ MAC.APP. 68/2018 & CM APPL. 2162/2018

THE ORIENTAL INSURANCE CO LTD .....Appellant

Through: Mr. A.K. Soni, Advocate.

versus

RITA PANWAR & ORS .....Respondent

Through: Mr. Gurmit Singh Hans, Advocate for R-1 to R-4.

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

**O R D E R**

**% 28.10.2026**

1. This appeal has been filed by the Insurance Company, assailing impugned award dated 16th November 2017 passed by the Motor Accidents Claims Tribunal ('***MACT/Tribunal***'), Tis Hazari Courts, awarding compensation of *Rs.29,75,000/-* along with 9% interest in respect of death of *Shri Ravinder Panwar* (hereinafter, '***deceased***'), in an accident which occurred on 24th May 2007 at about 04:30 a.m.

2. The deceased was travelling from Delhi towards Barot and on reaching near PS Loni, Ghaziabad, UP, he was allegedly hit by a *Santro Car bearing DL-2C-AD-7531* (hereinafter, '***alleged offending vehicle***'), driven by respondent no.5/driver in a rash and negligent manner, which was coming from the Delhi side. Subsequently, FIR No. 278/2007 was registered which

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did not mention the registration number or the make of the alleged offending vehicle.

3. After 5 months on 31st October 2007, a Daily Diary ('***DD***') entry was recorded, which has been handed over by *Mr. A. K. Soni*, counsel for Insurance Company, which states that on the date of the accident, the alleged offending vehicle was coming from Delhi towards Samaypur checkpost and when the driver was questioned, he stated that he had been involved in the accident which occurred on 24th May 2007.

4. *Mr. A.K. Soni*, counsel for Insurance Company, contends that it is highly incredible that the driver was intercepted and a case was planted regarding this alleged offending vehicle after 5 months, without any information regarding the identity of the vehicle.

5. There is no other record of investigation which would bear out that any statement had been given regarding the identification of the alleged offending vehicle.

6. *PW-3* had been presented as a police witness, who stated that he was an eyewitness to the accident and had been standing opposite Suraj Nursery, Loni, waiting for conveyance at about 04:30 a.m. when he saw the accident. He did not intimate it to the police, since he did not have a mobile. He asked another motorcyclist who was coming that way to inform the police station. Driver of the alleged offending vehicle refused to take the deceased to the hospital and fled away from the scene.

7. He stated that, after some days, the deponent along with his friend went to the police station Loni, where he came to know that *Shri Ravinder Panwar* had passed away and thereafter, met the family of the deceased and told them about the entire accident. In his cross-examination, he stated that he noted the

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registration number of the offending vehicle on a matchbox by taking a pen from his friend.

8. The testimony of *PW-3* cannot be relied upon for the reason that there was no statement which was provided to the police at that stage and there is no other evidence available on record. Merely by stating that he had seen the accident and not even stating the date when he went to P.S. Loni after the accident, the testimony itself becomes flimsy and unacceptable.

9. *PW3's* evidence shows that he was a resident of *PS Bhorakalan, District, Mujaffar Nagar, Village, Sisoli* and there was no reason why on a later date he would go to P.S. Loni nor did he make any statement in that regard.

10. Reliance by the MACT was placed on the evidence of respondent no.5/driver of offending vehicle ('***R1W1***'), who, even though had stated that the accident occurred, since he applied brakes on a speed breaker and the motorcyclist collided with him, in his cross-examination, however, he denied that the accident had occurred due to his negligence and also stated that he had been wrongly implicated by the police in the said accident.

11. He stated that he was called to P.S. Loni after 5 to 6 months by the police. Considering his testimony, particularly in the cross examination, when he was confronted by the counsel for Insurance Company, the testimony of *R1W1* could not have been believed by the MACT, considering the circumstances that he was intercepted just after 5 months, without any reason and was presumably made to give this evidence. A suggestion of the same was also given in the cross-examination, to which *R1W1* finally made a statement that he had been wrongly implicated by the police in the said accident.

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12. *Mr. A.K. Soni,* further points out that the deceased was a constable in Delhi Police and it could have been the case that the alleged offending vehicle had been falsely implicated in collusion with the police.

13. Reliance has also been placed by *Mr. A.K. Soni* on the decision of this Court in ***Oriental Insurance Co. Ltd. v. Naresh Kumar & Ors***., 2026:DHC:2876, wherein, in similar circumstances, the Court noted as under:

> "18. *However, the surprising event occurred on 22nd December 2013, when after 47 days of the incident, the IO received information from "some unnamed informer" that a vehicle bearing registration no. UP-86D-9531 was stuck in a traffic jam at Haldwani Mor and that the driver of the said vehicle, Bablu, was present there and could be arrested. Acting on this information, the police apprehended the driver and seized the vehicle. The said vehicle was thereafter released to its owner, who clarified that the correct registration number of vehicle was UP-86D-9531*."
>
> (emphasis added)

14. Accordingly, in the opinion of this Court, the plea taken by Insurance Company is sustained and the appeal is allowed. The impugned award is hereby set aside.

15. By order dated 19th January 2018, this Court had directed the Insurance Company to deposit the entire compensation amount along with accrued interest before the MACT and no orders for release were given. Thereafter, by order dated 24th March 2023, directions for release of *Rs. 5,00,000/-* were given, which was subject to the outcome of this appeal.

16. The balance amount of compensation, along with accrued interest, shall be released to the Insurance Company. If any amount has been released to the claimants, the same shall not be recoverable from the claimants.

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17. Considering that this case, at best, may be considered as a hit and run case, the claimants shall be at liberty to approach the Claims Enquiry Officer of the Sub-Division or Taluka in which the accident took place, in view of the procedure provided under *Clause 20 of the Solatium Scheme, 1989*, formulated by the Central Government under Section 163(1) of the Motor Vehicles Act, 1988. Alternatively, claimants may seek compensation under Compensation to Victims of Hit and Run Motor Accidents Scheme, 2022, if applicable.

18. The appeal is accordingly disposed of. Pending applications (if any) are rendered infructuous.

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

20. Copy of the order be sent to the concerned MACT and Bank for information and compliance.

21. Order be uploaded on the website of this Court.

**ANISH DAYAL, J**

**OCTOBER 28, 2026/RK/***sp*

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