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

\# **CNR No. DLHC010380352026**

\+ CM(M) 1814/2026&CM APPL. 54691/2026

SATWIK NAIR .....Petitioner

Through: Mr. Manu Prabhakar, Advocate.

versus

JAG PRASAD (SINCE DECEASED) THROUGH HIS LRS AND ORS .....Respondent

Through: Mr. Vivek Kumar, Advocate for respondent no.5 (*through VC*)

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

O R D E R

% 09.10.2026

1. This petition has been filed assailing order dated 28th July 2026 passed by the Motor Accident Claims Tribunal ('***MACT/Tribunal***'), Karkardooma Courts, Delhi, in MACT No. 615/2024, whereby the application filed by petitioner seeking impleadment of the driver and insurer of the truck with which the car driven by petitioner had collided was rejected by the MACT.

2. *Mr. Manu Prabhakar*, counsel for petitioner, submits that the accident occurred in the early hours of the morning, at around 04:30 a.m., when the truck was stationary on the *sabzi mandi* road. He submits that the truck was not parked on the left side of the road but was stationed in the middle of the road and, therefore, negligence ought to be attributed to the truck driver as well.

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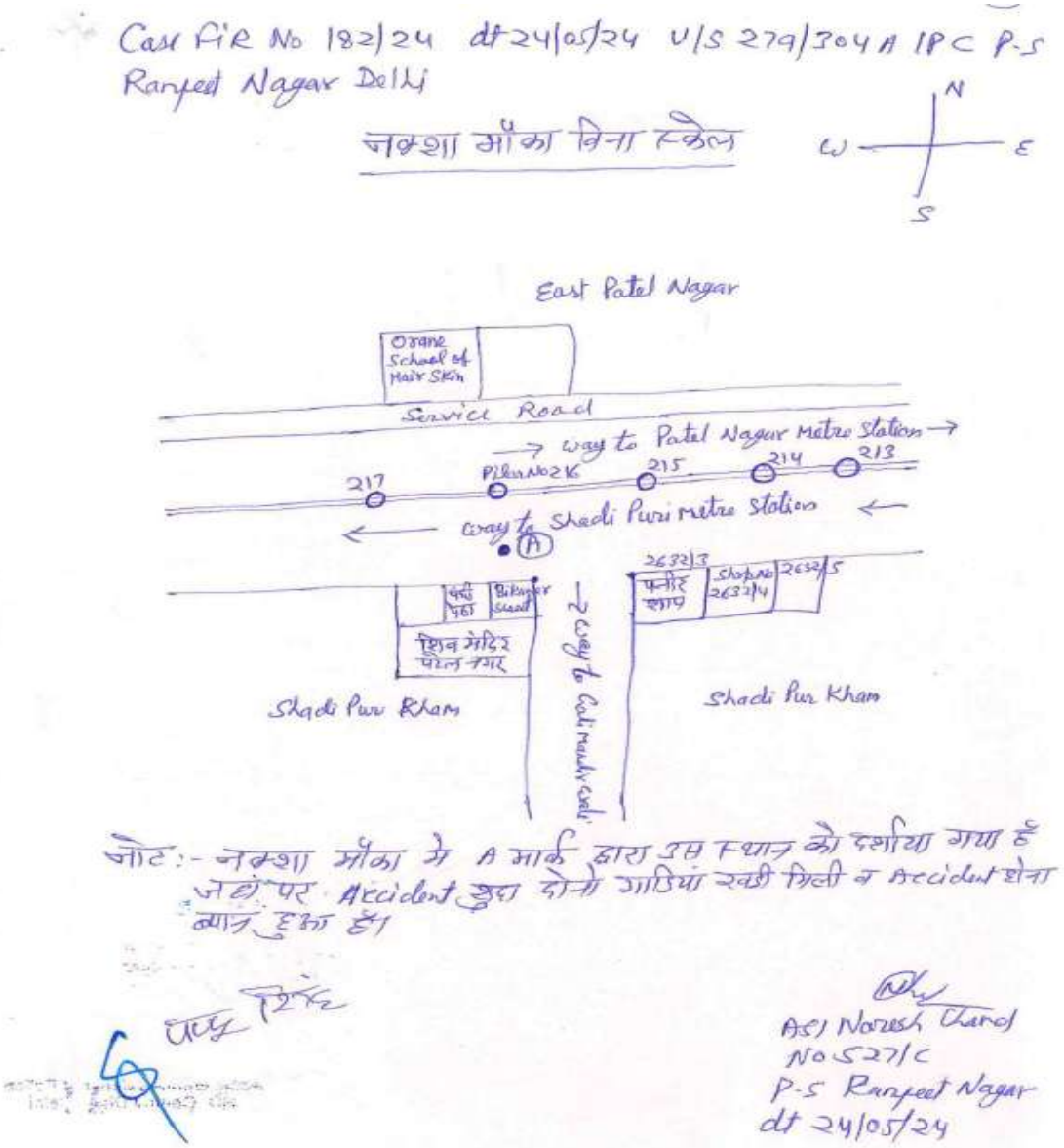
3. The petitioner had filed an application under Order I Rule 10 of the Code of Civil Procedure, 1908 ('***CPC***'), seeking impleadment of the driver and insurer of the truck. However, the said application was rejected by the MACT. In support of his submissions, *Mr. Prabhakar* relies upon the decision of this Court in ***Go Digit General Insurance Co. Ltd. v. Shiv Kumar & Ors.***, 2022:DHC:5425, which, in turn, relies upon the decision of the Supreme Court in ***Khenyei v. New India Assurance Co. Ltd. & Ors.***, (2015) 9 SCC 272.

4. *Mr. Vivek Kumar*, counsel appearing for respondent no. 5, the insurer of the truck, opposes the petition and submits that no *prima facie* case of negligence on the part of the truck driver is made out. He contends that, at 05:00 a.m. on a morning in May, visibility would have been sufficient for the car driver to notice the truck stationed on the road, where loading and unloading operations were underway.

5. *Mr. Manu Prabhakar*, counsel for petitioner, however, contends that the proceedings are at early stage of inquiry before the MACT and they should be given the opportunity to contend that there was some composite negligence involving the truck driver as well, since he was standing in the middle of the road without any indications and unloading goods.

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6. He points out to the site plan which is extracted as under for reference:



7. The Court has examined the decision of ***Khenyei*** (*supra*) as well as ***Go Digit*** (*supra*).

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8. In ***Go Digit*** (*supra*), this Court, relying upon ***Khenyei*** (*supra*), observed that where joint and several liability of joint tortfeasors is in issue, the claimants are entitled to seek compensation from all or any of the joint tortfeasors.

9. Further, since the proceedings before the MACT are at a preliminary stage, impleadment of the owner, driver and insurer of the other alleged tortfeasor at this stage would avoid multiplicity of proceedings. The relevant paragraphs of ***Go Digit***(*supra*) are extracted below for reference:

> "*8. I find that learned counsel for the respondents 1 to 4 is, by placing reliance on the decision in Khenyei (supra), justified in urging that once the liability of the joint tortfeasors is joint and several, the claimants are entitled to claim entire compensation from all, or any one of the joint tortfeasors. However, once it is an admitted position that the proceedings before the learned Tribunal are still at a preliminary stage, and the matter is listed for appearance of the respondents on 22.12.2022, it would avoid multiplicity of proceedings, if the owner, insurer, and LRs of the driver of car are impleaded at this stage itself. Once the accident took place on account of collision of two vehicles, the impleadment of the owner, insurer and LRs of the driver of the car in the claim petition filed by respondents nos. 1 to 4, would in fact be in the interest of all parties concerned, as this will avoid any objection whatsoever from them at a later stage, regarding the liability as may be fastened on them in the ongoing proceedings before the learned Tribunal*."

10. The essence of the decision in ***Khenyei*** (*supra*) is that, in the absence of impleadment of other joint tortfeasors, it would not be appropriate for the Tribunal to determine the extent of composite negligence of the drivers of the two vehicles.

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11. Non-impleadment of the other joint tortfeasors would, would deprive the driver of the car, *i.e*. the petitioner herein, of the opportunity to contend that liability ought to be apportioned between him and the driver/owner of the truck.

12. Accordingly, considering that the matter is at an early stage and evidence is yet to be recorded, the petition is allowed, and the impugned order is set aside. The MACT shall implead respondent No. 4, being the driver/owner of the truck, and respondent No. 5, being the insurer of the truck.

13. *Mr. Vivek Kumar*, counsel, appears for respondent no. 5 and shall ensure that the Insurance company is represented before the MACT.

14. List the matter before MACT on 30th October 2026, for further directions.

15. Needless to say that, this Court has not passed any observation on the merits of the matter, including that of any presumption of liability on the part of the parties to be impleaded and the MACT is at liberty to adjudicate the matter in accordance with law.

16. Petition is disposed of. Pending applications (if any) are rendered infructuous.

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

ANISH DAYAL, J

OCTOBER 9, 2026/RK/*zb*

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