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

\+ CM(M) 1888/2023

SMT FARZANA BEGAM & ANR. .....Petitioners

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

versus

SH DEVENDRA & ORS. .....Respondents

Through: Mr. J.P.N. Shahi, Adv. for Insurance Company.

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

**<u>O R D E R</u>**

**% 11.03.2026**

1. This petition has been filed impugning the order dated 13th November 2019 passed in ***MISC.DJ No.406/2018***, on an application under *Section 114* read with *Order XXXXVII* of Code of Civil Procedure 1908 [***CPC***] moved on behalf of petitioners for review of judgment award dated 23rd December 2016, along with an application for condonation of delay.

2. By the impugned order, the Motor Accident Claims Tribunal, East, Karkardooma ['***MACT***'] dismissed the application for condonation of delay along with the review petition on the ground that there was an inexplicable delay of 9 months in filing the review petition.

3. Petitioners find themselves in a peculiar situation, as would be evident from the following.

4. Petitioners are parents of deceased *Mohd. Shahruk*, who died in an accident on 31st August 2014, while riding his motorcycle, and collided with a bus, fell on the road and sustained serious injuries, to which he later succumbed.

5. A claim for compensation was filed by the parents of the deceased [*petitioners herein*] against the driver, owner and insurer. MACT passed an award of *Rs.5,98,500/-* with 9% interest on 23rd December 2016.

6. An appeal being ***MAC.APP. 416/2017*** was filed before this Court seeking enhancement of compensation in view of the inadequate assessment for the benchmark income considered for the minor *Mohd. Yaseen*, who was 16 years at the date of the accident, and the use of the multiplier.

7. At that stage, the extant law governing the position was the decision of this Court's ***Chetan Malhotra v. Lala Ram*** 2016:DHC:3863, which was decided on 13th May 2016.

8. Keeping the said position in mind, petitioner withdrew the appeal being ***MAC.APP. 416/2017*** to seek a review before the MACT.

9. However, it is alleged that counsel for petitioners appearing in the appeal did not apprise them of the fact of withdrawal of appeal and, therefore, there was a delay of 9 months in filing the review petition.

10. Now that the review petition has been dismissed on the ground of delay, *Mr. S.N. Parashar*, Counsel for petitioners, seeks to revive his right to appeal against the original award dated 23rd December 2016, in view of the evolution of law in relation to the benchmark income to be assessed for a deceased minor and the multiplier. This aspect has now crystalized in various judgments of the Supreme Court which are as under:

a) ***Kajal vs. Jagdish Chand & Ors***. (2020) 4 SCC 413;

b) ***Master Ayush v. Branch Manager, Reliance General Insurance Co. Ltd***. (2022) 7 SCC 738;

***c) Minor Roopa v. The Divisional Manager, New India Assurance Company Ltd.*** (2024) 12 SCC 490;

d) ***Baby Sakshi Greola v. Manzoor Ahmad Simon*** 2024 SCC OnLine SC 3692;

e) ***Karuna Parmar v. Prakash Sinha*** 2025 INSC 1244.

11. A view has been taken by a Predecessor Bench of this Court in ***National Insurance Co. Ltd. v. Sanju & Ors.*** 2025:DHC:11781 which followed by this Court in ***Tata AIG General Insurance Company v. Mukesh Kumar & Ors.*** 2026:DHC:756 and in subsequent judgments in ***Oriental Insurance Co. Ltd. v. Vishnudev Sah & Ors.*** 2026:DHC:1266 and ***Rekha Devi & Anr. v. Bechan Yadav & Ors.*** 2026:DHC:805.

12. The decision in ***Chetan Malhotra v. Lala Ram*** (*supra*) by this Court is no longer applicable in view of the evolution of law.

13. Therefore, *Mr. Parashar*, Counsel, states that he will accordingly, file a fresh appeal.

14. Accordingly, this petition is disposed of, with liberty to petitioners to file an appeal against the order dated 23rd December 2016.

15. The delay, which has been caused due to the above sequence of events, shall not come in the way of the appeal being entertained on its own merits, provided the appeal is filed within the next six weeks.

16. *Mr. J.P.N. Shahi*, Counsel appearing on behalf of Insurance Company, states that he will argue the appeal on merits, as and when filed; however, no interest liability be placed upon them for the period from the passing of the award dated 23rd December 2016 till further directions are passed by this Court. In these facts and circumstances, this is a fair plea and would be considered by the Court when passing a decision in the appeal, if and when filed.

17. Accordingly, the petition is disposed of, with the aforesaid directions.

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

**ANISH DAYAL, J**

**MARCH 11, 2026/MK**/tk