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

+ **MAC.APP. 918/2019**

RAJBIR KHAN

.....Appellant

Through: Mr. S. Mukherjee, Mr. Divakar Sharma, Mr. Kanishak Sharma and Mr. Abhishek, Advs. with appellant in person.

versus

BAL KISHAN SHARMA & ORS

.....Respondents

Through: Mr. Abhishek Pareek, Adv. for R-1
Ms. Rekha Saroha, Adv. for R-2.

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

15.05.2026

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1. This appeal has been filed assailing impugned award dated 05th September 2019, passed by the Motor Accident Claims Tribunal, Central District, Tis Hazari Courts, Delhi [**MACT**] in *MACT No. 356720/2016*, whereby the claim petition filed by appellant/claimant was dismissed.
2. *Vide* the aforesaid claim petition, appellant/claimant had sought compensation in respect of the injuries sustained by him as a result of the accident which occurred on 02nd October 2010. In the said accident, he was a passenger in an *autorickshaw*, along with one *Saleem* [**PW2**], his wife, and child, when the said *autorickshaw* was struck by a *Ford Fusion Car* bearing no. *HR-29T-2431*, which was being driven by respondent no.4/driver [**‘offending vehicle’**].
3. *Mr. S. Mukherjee*, counsel for appellant/claimant, has drawn the attention of this Court to the following aspects:



- i. **First**, that the First Information Report [**FIR**] was registered at the behest of *Saleem*, wherein he stated that on 02nd August 2010 (*since the said date had been erroneously mentioned, it was subsequently corrected to 02nd October 2010*) he met with an accident when he was travelling ‘along with the appellant/claimant and his family’, and identified car bearing no. *HR-29T-2431* as being responsible for the said accident. Basis this FIR, a charge-sheet was filed against the driver of the offending vehicle.
- ii. **Secondly**, that appellant/claimant [**PW-1**] had given a clear testimony in relation to the facts and circumstances of the accident, which he sustained during his cross-examination. *Mr. Mukherjee*, counsel for appellant/claimant, points out that MACT has placed strong reliance on a single sentence in the cross-examination of **PW-1**, wherein **PW-1**, despite having stated in his examination-in-chief that *Saleem* was present in the three-seater-*autorickshaw* [**TSR**], stated during his cross-examination that “*no person other than his wife and son, was sitting in the TSR*”. *Mr. Mukherjee*, counsel for appellant/claimant, further asserts that the said finding by the MACT was disproportionate, considering that a single sentence could also have been erroneously recorded and cannot result in dismissal of the claim petition, particularly since the FIR and charge-sheet have already been filed.
- iii. **Thirdly**, that the Investigating Officer [**IO**] did not appear before MACT despite being summoned, and therefore, the Mechanical Inspection Report, the Medico- Legal Certificate [**MLC**] or even the site plan was not placed on record.
- iv. **Fourthly**, the driver of the offending vehicle did not appear before the MACT to lead evidence, and therefore there was no contrary view



which could have been taken by the MACT in this matter.

4. Considering that the discrepancies in the evidence are minor, the same would not affect the overall facts and circumstances of the matter, which appear to stand substantiated in the FIR as well as charge-sheet, and therefore the MACT ought not to have simpliciter dismissed the claim on the said basis. Further, as part of its inquiry, the MACT ought to have considered the testimony of the IO, particularly when it appeared to entertain doubts regarding the credibility of the statements and testimonies of the injured/claimant, and *Saleem*, on whose statement the FIR was registered.

5. Counsel for respondent no. 1 states before this Court that he had sold the offending vehicle to one *Mr. Pramod Kumar Bisla*/respondent no. 2, who has since deceased, and is now survived by his legal heirs.

6. Counsel for respondent no. 2 on the other hand, states that he was never in possession of the offending vehicle since the same had never been transferred on account of its existing hypothecation with the ICICI bank.

7. It is stated that the *offending vehicle* was uninsured, and therefore, the liability would rest upon either of these respondents, if at all the aspect of negligence is found to be established in respect of respondent no. 4/ *driver*.

8. In view of the aforesaid gaps in the evidence led before the MACT, it would be appropriate that the matter is remanded back to reconsider the evidence and summon any person, including the IO, who may assist in the inquiry, so as to fill the gaps in the previous inquiry and the record of criminal proceedings.

9. List the matter before the ***MACT-01, Central District. Tis Hazari Courts*** on 05th June 2026, for directions and further proceedings.

10. Considering that the matter pertains to 2019, the MACT shall endeavour to complete the inquiry within a period of 6 months.



11. Accordingly, this appeal is disposed of with above directions.
12. Order be uploaded on the website of this Court.

ANISH DAYAL, J

MAY 15, 2026/sm/ya+tk