$~53

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

\# **CNR No. DLHC010512442026**

\+ CM(M) 2332/2026, CM APPL. 73628/2026

TULSI DEVI & ORS. .....Petitioners

Through: Mr. Jatinder Kamra, Advocate.

versus

SANJIV KUMAR & ORS. .....Respondents

Through:

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

O R D E R

% 27.10.2026

CM APPL. 73629/2026 (*Exemption*)

1. Exemption allowed, subject to all just exceptions.

2. Application is accordingly disposed of.

CM(M) 2332/2026

1. This petition has been filed assailing orders dated 30th May 2025, 26th September 2025 and 27th March 2026 passed by the Motor Accidents Claims Tribunal ('***MACT/Tribunal***'), Rohini Courts, Delhi.

2. The claim petition was filed in respect of an accident which occurred on 21st May 2018 in which *Raj Kumar Sharma* suffered severe brain injuries and died on 25th November 2018. Claim petition was filed by the legal heirs which was registered as MACT No. 280/2019. Written statement was filed by the Insurance Company and issues were framed on 25th August 2023.

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 31/10/2026 at 11:25:55

3. On 05th January 2024, the Presiding Officer was on leave and the matter was listed for 12th April 2024. The evidence by way of affidavit was given in advance to respondents and despite the matter being listed for petitioner's evidence ('***PE***') on 12th April 2024, nobody appeared for the Insurance Company and no evidence could be recorded.

4. On 05th July 2024, ***PW-1***, was examined and cross-examined and thereafter, the matter was listed on 04th October 2024. On 04th October 2024, an application was filed to summon eyewitnesses and other witnesses to prove the employment and income of deceased and the said application was allowed.

5. On 14th February 2025, process fee was filed for summoning of witnesses, however, since the service report was not received, the matter was adjourned to 30th May 2025.

6. On 30th May 2025, which is one of the orders impugned herein, despite the process fee form having been filed, the MACT stated that the *dasti* process was not collected by petitioner and the service report had not been received. Therefore, due to non-compliance of the order, right of petitioner to claim interest stood curtailed from 30th May 2025 till the conclusion of evidence of the said witnesses.

7. *Mr. Kamra*, assails this order on the ground that the service report subsequently noted that the employer company of the deceased was closed and as such, records could not be produced. There was no default on behalf of claimants and therefore, the penalty of closure of interest for that brief period was contrary to the aspect of benevolent legislation under which these proceedings are conducted.

8. To this extent, the Court is of the opinion that the order passed by MACT on 30th May 2025 was unduly harsh, considering that the process fee

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 31/10/2026 at 11:25:55

had already been filed and the service report was awaited.

9. *Mr. Kamra*, states that there was nobody in the family to take *dasti*, since the deceased passed away and was survived by his widow and two minor children. Therefore, the MACT ought to have also considered this aspect. Accordingly, the direction passed on 30th May 2025, as per barring the interest, is set aside.

10. It is further contended that on 26th September 2025, the affidavit of eyewitness ***PW2*** had been placed on record, however, in cross-examination, the MACT directed that the complete set of criminal case record, including charge sheet, statement of witnesses was required.

11. On 27th March 2026, MACT recorded that the cross-examination of ***PW-2*** by Insurance Company had not been carried out for want of certified copies of the documents of criminal court proceedings. Accordingly, the claimant was directed to summon the entire record of criminal case at the time of cross-examination of ***PW-2***, so that the cross-examination can be conducted.

12. *Mr. Kamra*, contends that this process is unknown to MACT procedure and it is for the respondents to procure any document with which they wish to confront the petitioner's witness.

13. This Court is inclined to agree with the appellant on this account. The evidence of ***PW-2*** shall continue to be recorded and it is up to respondent no.3/Insurance Company to procure the documents they require in order to confront the witness. Impugned orders dated 26th September 2025 and 27th March 2026 to that effect, are set aside.

14. Moreover, there is no mandatory necessity for the record of criminal proceedings to be produced before the MACT since the matter has to be

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 31/10/2026 at 11:25:55

considered on preponderance of probabilities on the basis of the documents on record.

15. Since the claim was instituted in 2019 and eight years have already elapsed since the fatal accident, MACT is directed to conclude the examination of evidence within a period of six months.

16. List before the MACT on 18th November 2026, for further directions.

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

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

ANISH DAYAL, J

OCTOBER 27, 2026/RK/*sp*

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 31/10/2026 at 11:25:55