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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **MAC.APP. 490/2025 & CM APPL. 48010/2025**
M/S CHOLAMANDALAM MS GENERAL INSURANCE CO. LTD

.....Appellant

Through: Mr. Sameer Nandwani and Mr.
Jyaditya Dogra, Advs.

versus

SHBART DABAS ALIAS SHBARAT DABAS (DECEASED) THR
LRS. & ORS.

.....Respondents

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

16.01.2026

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1. These petitions have been filed impugning the award dated 15th April 2025 passed by the Presiding Officer, MACT, North-West District, Rohini Courts.
2. By the said award, the compensation of Rs. 32,91,334/- has been awarded in favour of the claimants.
3. The incident in question was on 18th June 2021 at about 5:00 a.m., when the offending vehicle bearing No. HR-63D-8457 being driven by *Mohd. Shamsher @Shamsher Khan/respondent no.6* collided at Bhopa road Flyover, Bypass, Muzaffar Nagar, Uttar Pradesh.
4. The deceased was aged about 31 years at the time of death and was working as a driver.
5. An FIR No.276/2021 under Sections 279/338/304A/427 IPC was filed against respondent no.6.
6. Written statement was filed by the Insurance Company, and the issues,



which were taken up, were relating to not having valid driving licence of the vehicle.

7. *Mr. Sameer Nandwani*, counsel for appellant, however, states that the eyewitness **PW-2**, *Mr. Arbaaz*, was sleeping in the back seat of the car and therefore, could not have given the testimony regarding the negligence of respondent no.6.

8. In this light, the evidence of PW-2 has to be perused. *Mr. Arbaaz/PW-2*, in his testimony has stated that he, along with his friend *Mr. Ajit*, *Mr. Rahul* and *Mr. Shabarat Dabas* (deceased), was travelling in the *Chevrolet Sail*, being driven by *Mr. Ajit* bearing No. DL-10CG-1679.

9. While *Mr. Shabarat Dabas* (deceased) was sitting on the co-passenger seat in the front, the **PW-2** and *Mr. Rahul* on the back seat of the vehicle.

10. He stated that when they reached the bypass, the offending vehicle was driving in a very high speed without following traffic rules and regulations and took a sudden break due to which their vehicle hit the offending vehicle and the friend *Mr. Ajit* and *Mr. Dabas* sustained grievous injuries.

11. It is a matter of record that *Mr. Dabas* and *Mr. Ajit* since succumbed to the injuries.

12. In PW-2's cross-examination, *Mr. Nandwani*, counsel for appellant seems to rely upon that the statement made by PW2 that the speed of the car, in which the PW-2 and his friends were driving, was at 70-80 Km/hr prior to the incident and the PW-2 was sitting on the rear seat. He, however, states that he was awake at that time, so the question of the witness being sleeping and not being able to witness does not arise. The fact and circumstances of the accident form part of the testimony and there is no reason why it would not be merited.



13. Besides, the assumption that the car was being driven at 70-80 Km/hr would naturally incorporate the negligence of the driver of the car i.e. *Mr. Ajit* is also not sustainable, for the reason that PW-2 has very categorically stated that the offending vehicle in front was being driven in rash manner, high speed and adopted a sudden brake, in position.

14. MACT relied upon the FIR, which was lodged against respondent no.6, who has been facing criminal charges and the MLC of the deceased, which were consistent with the injuries sustained.

15. Further, it is stated that the FIR resulted in a chargesheet and charges were framed against the respondent no.6/the driver of the vehicle in front.

16. Accordingly, in these circumstances, the Court is not convinced of the arguments advanced by *Mr. Nandwani*, counsel for the appellant/Insurance Company.

17. Accordingly, the appeal is dismissed.

18. Pending applications, if any, are rendered infructuous.

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

ANISH DAYAL, J

JANUARY 16, 2026/MK/bp