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

\+ **MAC.APP. 590/2024 & CM APPL. 66739/2024**

SBI GENERAL INSURANCE COMPANY LIMITED .....Appellant

Through: Mr. Sameer Nandwani, Advocate (through VC).

versus

SMT RAJ KUMARI DEVI & ORS. .....Respondents

Through: Mr. Vishwa Ranjan Kumar, Adv. for R-1 and 2.
Mr. Ayushman Aeron, Advocate for R-4.

\+ **MAC.APP. 36/2025, CM APPL. 2571/2025 CM APPL. 2572/2025**

DHARMENDER KUMAR BAHUGUNA .....Appellant

Through: Mr. Ayushman Aeron, Advocate.

versus

RAJ KUMARI DEVI AND ORS (SBI GENERAL INSURANCE CO. LTD.) .....Respondents

Through: Mr. Vishwa Ranjan Kumar, Adv. for R-1 and 2.
Mr. Sameer Nandwani, Advocate (through VC)

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

O R D E R

% **08.05.2026**

1. These appeals have been filed assailing impugned award dated 27th August 2024 passed by Motor Accidents Claims Tribunal (‘***MACT/Tribunal***’), Central, Tis Hazari Courts, Delhi in MACT No. 358228/2016, where the Tribunal awarded compensation of Rs. 18,97,500/- along with interest at the rate of 6% per annum.

2. ***MAC APP. 590/2024*** has been filed by the Insurance Company, challenging the quantum of compensation on certain accounts. ***MAC APP. 36/2025*** has been filed by the owner of offending vehicle, challenging right of recovery granted to the Insurance Company on the ground that the driver had a fake driving license.

3. The accident occurred on 16th October 2015, when a PCR call reported that a truck has crushed a cyclist at *Sant Nagar, Burari*, and the cyclist had expired. When the Sub-Inspector ('***SI***') reached the spot, he saw that one cycle was lying in an accidental condition and a person was lying dead on the road whose head had been crushed. The public had caught one person, namely, *Shahnawaz*, the truck driver and handed him over to the police. He was driving the truck bearing registration No. UK-07-CA-4334 (hereinafter, "***offending vehicle***") at the time of accident. Offending vehicle was parked on the roadside.

4. Eye-witness statement of *Mr. Harsh*, was recorded who stated that after the accident, the truck driver tried to flee, but the public caught him and dialed 100.

5. Further investigation was conducted by the ASI who requistioned a verification report with respect to driving license of the truck driver, which stated that no record of the same was found with the concerned authority. Charge sheet was filed and the matter was committed to trial.

6. In this regard, MACT has recorded its findings in *paragraph 34* to *36* of the impugned award, which is extracted as under:

> "*34. The offending vehicle was being driven by respondent no. 1 Shahnabaz, owned by respondent no. 2 Dharmender Kumar Bahuguna and insured with respondent no.3 SBI General Insurance Company Ltd. (Insurer).*

> *35. On the point of liability, Ld. Counsel for respondent no.3/ Insurance Company has submitted that respondent no. l was driving on a fake license and thus, there was a violation of the terms of insurance policy and therefore, the insurance company is not liable to indemnify the respondents.*
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> *36. On the other hand, respondent no.1 has not led any evidence to prove that his license was genuine. He even stopped appearing before this Tribunal and was proceeded ex-parte. Even respondent no. 2 did not lead any evidence to prove that he thought that the license of respondent no. 1 was genuine. On the other hand, R3W1 has proved that the license was fake. He has also proved the notice under Order 12 Rule 8 CPC and the postal receipts and yet the respondents have not produced a license effective on the date of the accident. During investigation, the IO had found the license of respondent no. 1 to be fake and thus, the chargesheet was filed under section 420 IPC also. Therefore, considering the above, it is concluded that respondent no.1 was driving the offending vehicle on a fake license. However, since MACT proceedings are beneficial in nature, respondent no.3 is directed to pay the award amount to the petitioner and is granted recovery rights against respondent nos.1 and 2, jointly and severally*."
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> (emphasis added)

7. It has been clearly recorded by the MACT that, despite the evidence led by Insurance Company and notice being issued under Order XII Rule 8 of Code of Civil Procedure, 1908 ('***CPC***') to the driver and owner to place evidence on record, they did not appear before the MACT and the matter was proceeded *ex parte*.

8. It has also been stated clearly that, neither the driver nor the owner led any evidence to prove that the driving license was genuine.

9. *Mr. Ayushman Aeron,* counsel appearing on behalf of owner of offending vehicle, places reliance upon the decision of Supreme Court in

IFFCO Tokio General Insurance Co. Ltd v Geeta Devi and Ors, 2023 INSC 954, wherein, the Supreme Court dismissed the appeal of Insurance Company seeking recovery rights. The Court held that unless the driving license appears to be fake on the face of it, and despite having a chance to verify the driving license, the owner did not choose to do so, the burden shall be upon the Insurance Company to prove that the owner did not take adequate care and caution to verify the genuineness of the driving license held by the driver.

10. On this basis, he claims that yet another opportunity should be granted to them to lead evidence at this stage and in that regard, an application under Order XLI Rule 27 of CPC has been filed.

11. There is no dispute about the fact that the driving license was indeed fake, as has been asserted in the investigation report of the IO, as well. In these circumstances, it was the duty of the owner of offending vehicle to have been prompt to place their evidence in rebuttal before the MACT. Having ignored the notice issued under Order XII Rule 8 of CPC, despite having previously filed a written statement, the owner of offending vehicle cannot claim the benefit of leading evidence at the appellate stage.

12. In the present circumstances, the Insurance Company having contested the issue of a fake driving license once, clearly shows that the burden shifted on the owner of offending vehicle to disprove the same or give evidence in rebuttal, which was not complied with. Therefore, the appeal filed by owner of offending vehicle cannot be considered tenable.

13. As regards the appeal filed by Insurance Company challenging the compensation awarded, the sole argument raised by *Mr. Nandwani*, counsel for Insurance Company, is that deductions on account of personal income

should be taken at one-half and not 1/3rd, considering that the mother of deceased had expired during the pendency of claim proceedings.

14. However, it has been contended by *Mr. Vishwa Ranjan Kumar*, counsel for claimants, that the mother of deceased passed away in 2021 whereas, the accident had taken place in 2015 and on the date of the accident, she was still alive and, therefore, any compensation awarded to her would ultimately become a part of her estate.

15. Reliance may be placed upon a decision of this Court in ***Iffco Tokio Gen. Ins. Co. Ltd v. Sh Anil Kumar Kaushik & Ors***. 2026:DHC:2695 wherein a claim petition had been filed by parents of the deceased, however, the mother of deceased had passed away during the pendency of claim proceedings; this Court upheld the finding of the Tribunal to the effect that mother would be considered a dependent, considering that she was alive when the accident took place and her subsequent death would not make a difference.

16. The same position has been taken by the MACT and the Court sees no reason to displace the same; accordingly, the compensation as granted by the MACT shall stand affirmed, as also the recovery rights against the driver and owner of offending vehicle.

Directions

17. *Vide* order dated 3rd December 2024, this Court had directed the Insurance Company to deposit the entire compensation amount, along with up-to-date interest with the Registrar General of this Court. However, no directions were given for the release of compensation.

18. Considering that fatal accident occurred in 2015 and no compensation

has been released yet even after 11 years, the following directions in respect of release of compensation amount are being passed:

i. *Rs. 5,00,000/-* lump sum amount will be released to wife of the deceased/*Rajkumari,* by liquidating the requisite number of fixed deposit receipts ('***FDRs***').

ii. *Rs. 2,00,000/-* will be released to the married daughter/*Indu Devi* by liquidating the requisite number of FDRs.

iii. Balance amount shall be retained in fixed deposits as directed in *paragraph 29* and *30* of the impugned award.

19. In view of the above, both appeals are, therefore, dismissed. Pending applications, if any, are rendered infructuous.

20. Statutory amount be refunded to the Insurance Company.

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

ANISH DAYAL, J

MAY 8, 2026/RK/*sp*