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

Date of decision: 26th February 2026

\+ **MAC.APP. 1115/2018**

MUNNI DEVI & ANR .....Appellant

Through: Mr. Shekhar Aggarwal, Advocate

versus

AZAM KHAN & ORS (NEW INDIA ASSURANCE CO LTD) .....Respondent

Through: Ms. Archana Gaur, Advocate with Ms. Ridhima Gaur, Advocate.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

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ANISH DAYAL, J (ORAL)

1. This appeal has been filed assailing judgment/Award dated 12th September 2018 passed by the Motor Accidents Claims Tribunal, Shahdara District, Karkardooma Courts, Delhi [‘***MACT***’] in *MACT No. 2242/2016*, seeking enhancement of compensation awarded at *Rs. 5,22,000/-* with interest at 9% per annum.

Incident

2. The accident occurred on 24th July 2016 at about 11:40 a.m., involving a scooter being driven by the deceased *Vijay Kumar*, and his friend *Anil* as the pillion rider. A truck bearing No.*UK-18CA-1231* [‘*offending vehicle*’] suddenly collided with the scooter and caused

fatal injuries to both.

3. **FIR No. 482/2016** under Section 279/338/304A/427 of Indian Penal Code 1860 [‘***IPC***’] was lodged at *Police Station Kotwali, Ghaziabad, Uttar Pradesh*. Driver [*respondent no. 1*] was apprehended. Offending vehicle was owned by respondent no. 2 and was insured by respondent no.3/ Insurance Company.

4. Written statements were filed by respondent nos. 1 [*driver*] and 2 [*owner*], stating that they had been falsely implicated, as no accident had taken place due to their negligence. Respondent no.3/Insurance Company took the defence that the deceased was not holding a valid driving license to drive a scooter.

Compensation awarded

5. For the purpose of determining compensation under the structured formula of the *Second Schedule*, the MACT assessed the age of the deceased as 20 years and applied multiplier ‘*16*’. In the absence of documentary proof of income, the Tribunal adopted the notional income of *Rs.40,000/-* per annum and deducted 1/3rd towards *personal expenses*.

6. On this basis, the MACT assessed the *loss of estate* at *Rs.5,06,667/-*. In addition, compensation of *Rs.15,000/-* was awarded towards *funeral expenses*.

7. The total compensation was assessed at *Rs.5,21,667/-*, rounded off to *Rs.5,22,000/-,* along with interest @ 9% per annum from the date of filing of the claim petition till realization, payable by the respondent no.3/Insurance Company.

8. The compensation awarded by the MACT is summarised as under:

S.NO	HEADS	AWARDED BY TRIBUNAL
1.	Income	Rs.40,000/-
2.	Multiplier	16
3.	Personal Expense	1/3rd
4.	Loss of Estate	Rs.5,06,667/-
5.	Loss of Consortium	Nil
6.	Funeral Expenses	Rs.15,000/-
7.	Medical Expenses	Nil
TOTAL		**Rs.5,22,000/-** [round off Rs.5,21,667/]
INTEREST		**9%**

Analysis

9. While determining the issue of negligence, the MACT took the view that there was only one witness, namely *Munni Devi* **[PW-1],** mother of deceased *Vijay Kumar* [who was *20 years* on the date of the accident and a *bachelor*], and that she was not an eyewitness to the accident. No other witness was examined by the claimants to prove rash and negligent driving.

10. The claim petition filed under *Section 166* of the Motor Vehicles Act, 1988 [‘***MV Act***’] was not entertained, and compensation was granted as per the *Second Schedule* on the basis *Section 163A* of the MV Act. Though the MACT was cognizant of the FIR registered and chargesheet filed, yet the opinion of the MACT was the same was not sufficient to prove rash and negligent driving of the vehicle.

11. *Mr. Shekhar Aggarwal*, counsel appearing for claimant, informs the Court that the case of compensation relating to the *Anil* [pillion

rider] has been already settled before the Lok Adalat *vide* award dated 08th April 2017.

12. *Mr. Aggarwal*, counsel for claimant, contends that the issue is well settled, that if witnesses are not available in accident cases but an FIR has been lodged and a chargesheet has been filed, a finding of absence of negligence cannot be returned.

13. In this regard, he relies on the Supreme Court's decision in ***Meera Bai & Ors v ICICI Lombard General Insurance Company Ltd & Anr***, (2025) INSC 600, and ***Ranjeet & Anr v Abdul Kayam Neb & Anr***, (2025) SCC OnLine SC 497.

14. *Ms. Archana Gaur*, counsel appearing on behalf of the Insurance Company, submits that no other witness was produced, and the driver and the owner also did not give their evidence before the MACT.

15. In this view of the matter, and in reference to the opinion of the Supreme Court in cases where there is no witness to prove negligence but an FIR and chargesheet has been filed, the MACT award would, therefore, have to be set aside.

16. Relevant paragraphs of ***Meera Bai & Ors v ICICI Lombard General Insurance Company Ltd & Anr*** (*supra*) are extracted as under for reference:

> "*3. On facts, it needs to be stated that the accident occurred on 29.01.2015 when the deceased was travelling pillion in a motorbike driven and owned by the second respondent. The FIR was lodged against the owner driver of the vehicle for the offence of rash and negligent*

driving. A charge sheet was filed against the owner driver. The owner driver filed a written statement before the Tribunal denying the rash and negligent driving on his part, however he did not mount the box to depose that it was not due to his fault that the accident occurred.

4. As far as examining the eyewitness, such a witness will not be available in all cases. The FIR having been lodged and the charge sheet filed against the owner driver of the offending vehicle, we are of the opinion that there could be no finding that negligence was not established.

5. In the above circumstances, we are of the opinion that the order of the High Court must be set aside and that of the Tribunal restored. We do not speak on the quantum, since there is no appeal filed by the claimants against the quantum as determined by the Tribunal."

(emphasis added)

17. Relevant paragraphs of ***Ranjeet & Anr v Abdul Kayam Neb & Anr*** *(supra)* is extracted as under for reference:

"*3. In an accident which took place on 13.06.2006, one 'Ramkaran' was alleged to have been hit by the bus leading to his death. An FIR was lodged wherein charge sheet was submitted against the driver of the bus. On the claim being preferred to the Motor Accident Claims Tribunal1, since, the eye-witnesses were not produced, the Tribunal refused to grant any compensation. The decision of the Tribunal was upheld by the High Court.*

4. It is settled in law that once a charge sheet has been filed and the driver has been held negligent, no further evidence is required to prove that the bus was being negligently driven by the bus

<u>driver. Even if the eyewitnesses are not examined, that will not be fatal to prove the death of the deceased due to negligence of the bus driver</u>."

(emphasis added)

18. These decisions have also been relied upon by this Court in a previous decision of ***Santosh v Ashish & Anr (Shri Ram General Ins. Co. Ltd)***, 2026:DHC:130, where reference has also been made to ***Mangla Ram v Oriental Insurance Co. Ltd***, (2018), 5 SCC 656. Relevant paragraph of the judgment is extracted as under:

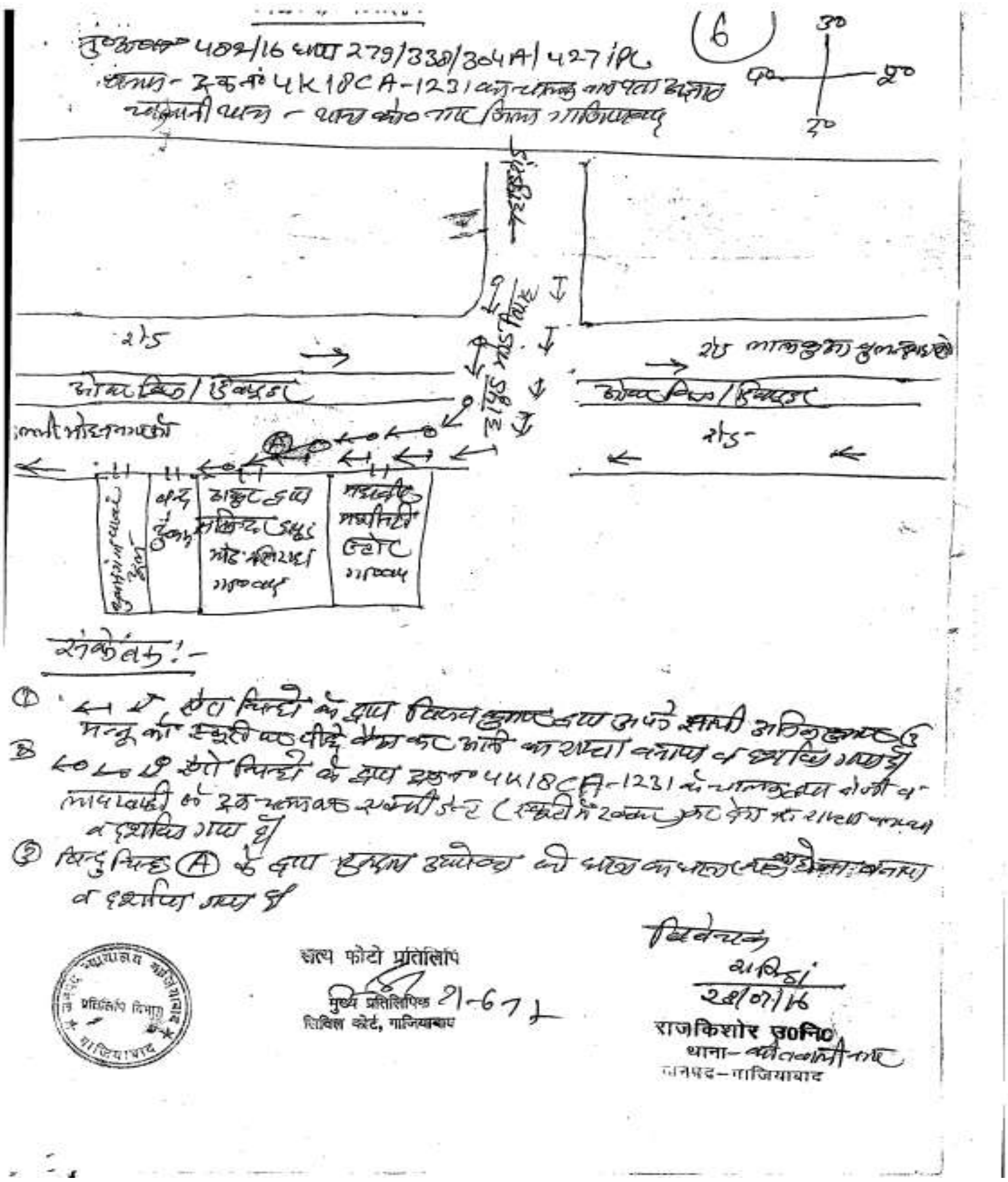
"*III. Mangla Ram v. Oriental Insurance Co. Ltd., (2018) 5 SCC 656:Where the Supreme Court reiterated the principles regarding assessment of negligence in cases where evidence of eye-witnesses was not available. The Court referred to the decision in Dulcina Fernandes, 2013 ACJ 2712 (SC), and stated as under:*

"25. In Dulcina Fernandes [Dulcina Fernandes v. Joaquim Xavier Cruz (2013) 10 SCC 646 : (2014) 1 SCC (Civ) 73 : (2014) 1 SCC (Cri) 13], this Court examined similar situation where the evidence of claimant's eyewitness was discarded by the Tribunal and that the respondent in that case was acquitted in the criminal case concerning the accident. <u>This Court, however, opined that it cannot be overlooked that upon investigation of the case registered against the respondent, prima facie, materials showing negligence were found to put him on trial. The Court restated the settled principle that the evidence of the claimants ought to be examined by the Tribunal on the touchstone of preponderance of probability and certainly the standard of proof beyond reasonable doubt could not have been applied as noted in Bimla Devi</u> [Bimla Devi v. Himachal RTC, (2009) 13

SCC 530 : (2009) 5 SCC (Civ) 189 : (2010) 1 SCC (Cri) 1101]'"

(emphasis added)

19. The Court has also perused the sitemap, which clearly shows that the *deceased* and the *pillion rider* were riding on the scooter and following the lane on the *left side* while taking a turn to the right, whereas the offending vehicle [*truck*] was driving on the right side parallel to them and suddenly cut in front, whereupon the accident occurred. Extract of the sitemap is also provided as under:



20. Since there is nothing to establish that there was any contributory negligence on behalf of the deceased, and no evidence was placed before the MACT on behalf of the driver and the owner of the offending vehicle, there is no reason why the plea of the appellant should not be sustained.

21. In view of the same, this situation would invite the Court to grant compensation on the basis of principles enunciated by the Supreme Court in ***National Insurance Co. Ltd. v. Pranay Sethi,*** (2017) 16 SCC 680 and ***Sarla Verma v. Delhi Transport Corporation*** (2009) 6 SCC 121. Following is the assessment made by this Court:

a) There is no quarrel that the benchmark income has been taken as the minimum wage of *Rs. 7,108/-* per month in Uttar Pradesh, considering the deceased was resident of Uttar Pradesh, which comes to *Rs. 85,296/-* per annum.

b) Since he was *20 years* of age, 40% of the *future prospects* would be taken, and since he was a bachelor 50% would be deducted from the said income towards *personal and living expenses*.

c) Multiplier of *'18'* shall be considered in place of '*16*' as per ***Sarla Verma v. Delhi Transport Corporation*** (*supra*)

d) *Loss of estate* and *funeral expenses* will be taken at *Rs. 15,000/- each*, as per *paragraph 59.8* of ***National Insurance Co. Ltd. v. Pranay Sethi*** (*supra*)

e) *Loss of consortium* will be taken at *Rs.80,000/-* [*Rs.40,000 x 2*] as per ***Magma General Insurance Co. Ltd. v. Nanu Ram,*** (2018) 18 SCC 130 [*paragraphs 20 & 23*] and ***National Insurance Co. Ltd. v. Pranay Sethi*** (*supra*) [*paragraph 59.8*].

22. As per above assessment, following is the revised computation of compensation:

S. No.	HEADS	AWARDED BY THE TRIBUNAL	AWARDED BY THIS COURT
1	**Annual Income of deceased** (A) (less Income Tax)	Rs. 40,000/-	Rs. 85,296/- [*Rs. 7,108/- per month*]
2	**Add Future Prospects** (B)	Nil	40%
3	**Less Personal expenses of the deceased** (C)	1/3	1/2
4	**Monthly loss of dependency** [(A +B)-C = D]	-	Rs.59,707/-
6	**Multiplier** (E)	16	18
7	**Total loss of dependency** (D x E = F)	Rs.5,06,667/-	Rs. 10,74,726/-
8	**Medical expenses** (G)	Nil	Nil
9	**Compensation for loss of consortium** (H)	Nil	Rs.80,000/-
10	**Compensation for loss of love and affection** (I)	Nil	Nil
11	**Compensation for loss of estate** (J)	Nil	Rs.15,000/-
12	**Compensation towards funeral expenses** (K)	Rs.15,000/-	Rs.15,000/-
TOTAL COMPENSATION (F+G+H+I+J+K = L)		**Rs.5,22,000/-** [round off Rs.5,21,667/-]	**Rs. 11,84,726/-**
RATE OF INTEREST AWARDED		**9%**	**9%**

23. For the aforesaid reasons, the impugned award is modified. The compensation is enhanced by a sum of *Rs. 6,62,726/-,* as computed hereinabove.

24. Enhanced amount of compensation along with interest at the rate of 9% from the date of filing of petition shall be deposited by appellant/Insurance Company before the Registry of this Court within 4 weeks.

25. Accordingly, 1/4th [*Rs.1,65,681/-*] of the deposited enhanced amount shall be released in favour of the claimant.

26. Balance enhanced compensation shall be kept in FDRs of *Rs. 25,000/-* each for periods of 1 month, 2 months, 3 months and so on, in succession as may be calculated. Interest accrued on the FDRs shall be credited to the designated Savings Bank Accounts of the LRs. Upon maturity of the FDRs, the principal amount shall also be transferred to their respective Savings Bank Accounts.

27. Accordingly, this appeal is disposed of in the above terms.

28. Pending applications are rendered as infructuous.

29. Judgement be uploaded on the website of this Court.

(ANISH DAYAL)
JUDGE

FEBRUARY 26, 2026/RK/tk