



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

Reserved on: 14th January 2026

Pronounced on: 01st April 2026

Uploaded on: 02nd April 2026

+ **MAC.APP. 1089/2017**

BABY ALISHA & ORS

.....Appellants

Through: Mr. Shekhar Aggarwal, Advocate.

versus

AMIN AHMAD & ORS

.....Respondents

Through: R-1 in person.

Mr. Chandan Kumar Singh, Mr.
Rajender Kumar, Advocates for R-2

Mr. Mayank Gupta, Mr. Ashutosh
Mahendrou, Advocates for R-3.

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

1. This appeal assails impugned award dated 13th February 2017 passed by the Motor Accident Claims Tribunal, Karkardooma Courts, Delhi [*“Tribunal”*], in *Detailed Accident Report No.14926/2015* [*“DAR”*], whereby the claim petition was dismissed. The appeal has been filed by claimants namely *Baby Alisha* [appellant no.1] and *Baby Falak* [appellant no.2], who are minor Legal Representatives [*“LRs”*] of deceased *Gulzar* and are represented through their grandmother, *Mrs. Ayisha Bano* [appellant no.3].



The Incident

2. On 30th November 2011, at about 8:00 AM, near *Muskan Restaurant* at 65 Foot-road, *Jheel Park, Welcome, Delhi*, one *Gulzar* was injured and was removed to *Guru Teg Bahadur Hospital* [**GTB Hospital**], *Dilshad Garden, Delhi* vide *Medico- Legal Case Report* [**MLC**] No. C 6776/11. *Gulzar* suffered grievous injuries. The offending vehicle was a *Scooter Activa Honda* bearing registration bearing no. *DL 8S AR 0163*. The driver was noted as *Amin Ahmad*, respondent no.1 herein. The vehicle was uninsured and respondent no.2, *Ram Avtar*, was found to be owner of the offending vehicle.

3. DAR was filed and registered as claim petition. Respondent no.1/driver was found to be a juvenile. *Gulzar* thereafter expired and his LRs were brought on record.

4. Respondent no.1/driver, represented through his natural guardian (*his father*), denied his involvement in the alleged accident or that he was driving the offending vehicle. He claimed that he was standing at the spot and was falsely implicated in the case by the police. It was further claimed that death of *Gulzar* was natural. Deceased *Gulzar* was discharged from the hospital on the same day and no record was filed regarding his previous injuries. Respondent no.2/owner did not file any reply and was proceeded *ex-parte*.

Impugned Award

5. After framing of issues, evidence was led on behalf of petitioners, wherein *Hikmat Ullah*, father of *Gulzar* was examined as **PW-1**; *Dr. Sanjay Kumar*, Senior Resident Neurosurgery, *GTB Hospital* was examined as **PW-2**; *Dr. Parmeshwar Ram*, Chief Medical Officer [**CMO**], *GTB Hospital*,



was examined as **PW-3**; and *Aiysha Bano*, mother of deceased *Gulzar* was examined as **PW-4**. On behalf of respondents, evidence was led by respondent no.2/owner.

6. While assessing *issue no.1*, namely, whether deceased *Gulzar* died on account of injuries sustained in the accident, in the impugned award in *paragraphs 10 to 13*, it was noted by the Tribunal that injured was not examined and had died during the proceedings and never appeared before the Court. Relevant paragraphs are extracted as under:

“10 To succeed in the claim petition in view of section 166 of the MV Act, it is for the claimant to prove that vehicle which caused the accident was being driven rashly and negligently by its driver. The petitioner/injured in this case has not been examined and died during the proceedings as stated. In fact the injured/deceased never appeared in the Court during the proceedings. The testimony recorded on behalf of the petitioner has already been recorded. PW4 mother of the petitioner deposed that Gulzar died on 26.03.12 due to the accident caused on 30.11.2011. She is not the eye witness of the accident. PW2 as stated did not support the claim of the petitioner and the reason of death of deceased Gulzar being accident is not proved on record at all as no postmortem is placed on record. In fact the postmortem of Gulzar was not conducted. The medical records regarding even his injury from road accident is not proved in view of the testimony of PW2 and PW3. It worth to note that even in this case FIR was not registered though it is claimed that it resulted in grievous injury and subsequently the death of Gulzar. The reason for non registration of FIR is not explained at all till today along with not conducting the postmortem on Gulzar when the accident was caused his death. In view of the testimony of PW-2 & 3, there is nothing to come to the conclusion that the Deceased



Gulzar died due to the injury of the accident. There is no corroborative evidence on the record in this aspect.

.....
13. In the case in hand, there is nothing on record like criminal record to show the negligence of respondent no. 1. In fact the petitioner failed to prove any accident causing injury and subsequent death of Gulzar. The non registration of FIR, absence of criminal records, non proving of the MLC or medical records, absence of postmortem report to prove the cause of death of Gulzar etc. cast shadow on the claim of the petitioner. Therefore, in view of the material on records and testimony of witnesses, this Court is of the considered view that the petitioner has failed to prove that deceased Gulzar died on account of injuries sustained in accident taking place on 30.11.2011 at about 8.00 am at 65 foota road, near Muskan Restaurant, near Jheel Park, Welcome Delhi within the jurisdiction of PS Welcome due to rash and negligent driving of vehicle bearing no.DL 8SAR 0163 by respondent no.1 . The issue no.1 is decided accordingly against the petitioner.”

(emphasis added)

7. **PW-4**, mother of the Deceased, deposed that *Gulzar* died due to accident, but she was not an eyewitness. **PW-2's** [*Dr. Sanjay Kumar*] testimony did not support the claim of petitioners since there was no *post-mortem* report on record to prove that the accident was the cause of death.

8. Medical records regarding injury from road accident were not proved. No FIR was registered and it was noted that non-registration of FIR was also not explained. No witness was examined on behalf of claimants as to how accident occurred due to negligence of respondent no.1/*driver*. Death of *Gulzar* took place about four months after the accident.



9. Placing reliance on decision of *National Insurance Company Ltd. v. Pushpa Rana* (2009) ACJ 287 and *Bimla Devi and Ors. v. Himachal Road Transport Corporation and Ors.* (2009) 13 SCC 530, the Tribunal came to conclusion that claimants had failed to prove any accident causing injuries and subsequent death of *Gulzar*. Accordingly, no compensation was awarded and petition was dismissed.

Submissions

10. *Mr. Shekhar Aggarwal*, counsel for claimants, did not dispute the fact that there was no FIR, no criminal case was filed and no explanation given for non-registration of the FIR. However, the following aspects were highlighted:

- i) DAR [**Exhibit PW-1/8**], was duly registered; details of offending vehicle, its driver and owner were all provided therein. It was also noted that the nature of injuries was grievous.
- ii) Site plan [**Annexure P-8**], which form part of the Trial Court Record [**TCR**] showed the site of accident and that *Constable Kuldeep*, Police Station Welcome, was an eyewitness. *MLC No. C 6776/11* dated 30th November 2011 [**Exhibit Mark B**], was also part of record which noted that injured *Gulzar* was brought by *Parveen* and that the accident occurred on 30th November 2011 at around 8:00 A.M. at *Keshav Chowk*, as stated by the deceased *Gulzar*. Injuries noted were essentially swelling over occipital region of the scalp.
- iii) Chargesheet was also filed, which noted the date of birth of respondent no.1/driver as 10th February 1998, and therefore, he would be a juvenile as on date of accident. Chargesheet stated that when



Constable Kuldeep went to site of accident, the Scooter *Activa Honda* was found standing at the site and respondent no.1/driver was found nearby. It was also noted that people present at the site, *inter alia Pramod, S/o Kesav R/o Welcome Seelampur, Delhi*, stated that respondent no.1/ driver was driving the scooter in a rash and negligent manner and had injured deceased *Gulzar*.

iv) As per chargesheet, statement of respondent no.1/driver was recorded, wherein he confessed and stated that at the time of accident, he was driving the scooter and *Pradeep, S/o Ram Avtar* [respondent no.2 herein], was with him as pillion rider. Respondent no.1/*Ameen Ahmad* was arrested and a Social Investigation Report of Juvenile in conflict with law was prepared. Since he was also injured, his MLC was recorded. It was stated that respondent no.1/*Ameen Ahmad* was without a driving license [“*DL*”] and had caused injuries to the deceased *Gulzar* by rash and negligent driving, punishable under Sections 279/337 of the Indian Penal Code 1860 [*IPC*]. Statement of deceased *Gulzar* was recorded, wherein he stated that he was going towards Noida Factory from his house and when he reached near *Muskan Restaurant*, a child driving a scooter in a rash and negligent manner hit him, due to which he fell down and sustained injuries.

v) Death Certificate of *Gulzar* [**Exhibit PW-1/6**] shows that *Gulzar* passed away on 26th March 2012. As regards his stay in hospital, the testimony of **PW-2** [*Dr. Sanjay*] was relied upon, who stated that he was not the treating doctor but as per records i.e. the MLC, the patient was suffering from swelling over the occipital region of the scalp, and



had registered loss of consciousness on reaching GTB Hospital. The Non-Contrast Computed Tomography [NCCT] report revealed *left frontal contusion*, managed conservatively. Patient/*Gulzar* was discharged after three days of admission on 3rd December 2011. At the time of discharge, the patient/*Gulzar* was in a satisfactory condition, and was fully conscious and was advised regular follow-up in neurosurgery along with oral medication.

vi) He further stated that as per the Death Certificate [**Exhibit PW-1/5**], cause of death was “*intracerebral haemorrhage with intraventricular extension with midline shift*”, but he could not give a final opinion in the absence of a *post mortem* report. In his cross-examination, he confirmed that at the time of discharge, *Gulzar* was medically fit. *Post-mortem* was not conducted in a natural death and, therefore, no such record exists.

vii) Testimony of **PW-3** [*Dr. Parmeshwar Ram*] was relied upon, who was a CMO at GTB Hospital and confirmed that patient was discharged on 3rd December 2011 as his condition was satisfactory. In response to a Court’s query, he stated that it was not as if patient did not require any further treatment, but he could have continued as OPD patient. At the time of discharge, it was felt the patient did not require further hospitalization. He further stated that as per record, the patient again visited the casualty department on 08th December 2011, was referred to the *Neurotrauma Ward* for the emergency, was examined, prescribed medicines and sent home. The ENT department also



examined the patient on 08th December 2011, and again on 19th December 2011, and an audiometric test was conducted.

viii) As per the Death Certificate [**Exhibit PW-1/5**], deceased *Gulzar* was admitted on 22nd March 2012 and died on 26th March 2012, due to *intracerebral haemorrhage with IV extension*, meaning thereby internal bleeding in the brain. Responding to a Court's query as to whether this bleeding could be connected with the injuries sustained in the accident, **PW-3** [*Dr. Parmeshwar Ram*] stated that he was present in the casualty when the patient was brought to the hospital for the first time, but at the time of discharge on 3rd December 2011, no surgical intervention was required. **PW-3** further stated that he could not say the reasons for admission of the patient on 22nd March 2012 as the relevant papers were not on record.

11. Submissions were made on behalf of respondent no.1 and it was stated that he was a juvenile and that the cause of death could not be attributed to the accident. Reliance was placed on testimony of **PW-2** [*Dr. Sanjay Kumar*], who in his cross examination stated that *intracerebral haemorrhage* could also occur on account of depression. It was contended that there was no continuous treatment record, no eyewitness to the accident and that the respondent no.1 was falsely implicated as he was merely standing at the spot.

12. Submissions on behalf of respondent no.2, owner of the offending vehicle, were to that effect that he was not the registered owner of the vehicle, and that *Anuj Kumar Gupta* [respondent no.3 herein] was the registered owner of vehicle in question, and was, therefore, a necessary party to the claim petition. It was stated that *Anuj Kumar Gupta*/respondent no.3



had prepared fake and fabricated documents relating to sale of the vehicle in the name of respondent no.2. Respondent no.2 stated that he was working under *Anuj Kumar Gupta*, who was owner of the printing press, and that he had been made to sign **Form 29** by inserting a back date of 5th September 2011 at 2:30 P.M., whereas the accident took place on 30th November 2011. Moreover, on 7th December 2011, he was made to sign an affidavit, under influence and coercion, stating that he had purchased the vehicle, as he was working under *Anuj Kumar Gupta*.

13. Relying on the notarization, respondent no.2/owner stated that the purchase documents were clearly prepared subsequently and that a back date had been inserted in **Form 29** and in order to enable respondent no.3 to avoid liability in the case.

14. Counsel for respondent no.2 has also made extensive submissions on issue of cause of death of *Gulzar*, contending that it was unrelated to the incident since death occurred *116 days* after the date of accident and was possibly a natural death.

15. Reliance was placed on *Section 2 (30)* of Motor Vehicle Act 1988 [**“Motor Vehicle Act”**], which defines “owner” of a motor vehicle. In his cross examination, respondent no.2/ *Ram Avtar*, by way of an affidavit of evidence [**Exhibit R2W1**] stated that he was under employment of *Anuj Kumar Gupta*/respondent no.3, who was the registered owner of the offending vehicle.

Analysis

16. Upon assessing the evidence on record, this appears to be a peculiar case where no FIR has been placed on record even though there is a



chargesheet; respondent no.1/driver was a juvenile at the time of incident and has strongly contended that he was merely standing next to the scooter when the police arrived; and the alleged owner of vehicle, respondent no.2/*Ram Avtar*, has vehemently stated that he was compelled by his employer respondent no.3/*Anuj Kumar Gupta*, to sign documents transferring ownership of the vehicle.

17. None of these issues have been assessed by the Tribunal. The Tribunal has purely, proceeded on the basis that there was no FIR and no criminal record, and has held that the claimants failed to prove that the accident was caused due to rash and negligent driving and that subsequent death of *Gulzar* was connected to the accident. Further, the testimony of medical officers could not conclusively establish whether the death of *Gulzar* actually occurred as a foreseeable consequence of injuries sustained by him in that accident.

18. Considering all the submissions made by parties, this Court must assess the very core issue of the matter, which pertains to the issue of causation. Causation, in the context of a petition under *Section 166* of the Motor Vehicles Act, requires claimants to establish a proximate and credible nexus between the injuries sustained in the accident and the subsequent death of the victim. A claim can be filed by LRs of the deceased if death has ‘*resulted*’ from the accident [*Section 166 (1) (c)*]. It is axiomatic, even as per *Section 165* of the Motor Vehicle Act, that claims can be preferred if death is “*arising out of a motor accident*”.

19. MACT, while returning its findings in *paragraphs 10 to 13* of the impugned award, has examined the medical evidence on record and correctly



concluded that the claimants had failed to establish a '*causal nexus*' between injuries sustained in the accident and the subsequent death of deceased *Gulzar*.

20. To establish causation in the facts and circumstances of this case, the evidence of medical officers /doctors have to be assessed carefully:

- a) *Dr. Sanjay Kumar*, a Senior Resident in Neurosurgery at GTB Hospital, was examined as **PW-2**. He stated that he was not the treating doctor and deposed on the basis of the medical records. He confirmed that, as per MLC, patient [deceased] had been brought to the hospital in a case of an alleged road accident but was '*fully conscious*.' As per MLC, patient [deceased] suffered swelling over the "*occipital region*" of scalp, with a history of loss of consciousness, vomiting and ENT bleeding. A Non- Contrast Computed Tomography [**NCCT**] of the head report showed '*left frontal contusion*' which was managed conservatively and patient [deceased] was discharged after three days of admission i.e on 3rd December 2011. Notably, **PW-2** states that, at the time of discharge, patient's general condition was '*satisfactory*' and he was '*fully conscious*', with oral medication and advised regular follow-up in Neurosurgery OPD. He concludes by stating that the cause of death is *intracerebral haemorrhage with intraventricular extension with midline shift*, but a final decision could not be made without a *post-mortem*. In his cross-examination, he confirmed that swelling over the *occipital region* of the scalp '*cannot cause death*' and that, at the time of discharge, deceased *Gulzar* was medically/physically fit. Considering it was a natural death, a *post-*



mortem was not conducted. He further stated in his cross-examination that *intracerebral haemorrhage* may occur on account of depression.

From the testimony of **PW-2**, what can be gleaned is:

- i. **Firstly**, that the cause of death, even though mentioned in Death Certificate [**Exhibit PW-1/5**] as *intracerebral haemorrhage*, could not be confirmed with complete finality, considering there was no *post-mortem*, it being treated as a natural death. Even if it was *intracerebral haemorrhage*, it could have been due to other medical reasons.
- ii. **Secondly**, deceased *Gulzar* was discharged after three days of admission, being treated conservatively for *left frontal contusion* and only with oral medication;
- iii. **Thirdly**, that the swelling over *occipital region* of the scalp cannot cause death;
- iv. **Fourthly**, that at the time of discharge deceased *Gulzar* was medically and physically fit.
- v. The medical evidence provided by the Senior Resident Doctor [**PW-2**], therefore, does not confirm the chain of causation as is being professed by claimants. The death occurred four months later and could have been due to some other medical issues which deceased *Gulzar* was suffering from, since it is quite clear from the doctor's evidence that the *left frontal contusion* or the *occipital* swelling was managed satisfactorily and that swelling of *occipital region* could not cause death.



- b) *Dr. Parmeshwar Ram*, CMO of GTB Hospital, who was examined as **PW-3**, testified on the basis of records and confirmed that injured *Gulzar* had swelling at the back of his head/scalp and was discharged on 3rd December 2011 in satisfactory condition. He further stated that patient required treatment but could have continued as an OPD patient, and that on 3rd December 2011 it was felt that the patient did not require further hospitalization. On 08th December 2011, he again visited the Casualty department and was again prescribed medicines and sent home, after being examined by the doctors in Neuro-Trauma Ward and ENT. Yet again he was examined on 19th December 2011 by ENT, and an audiometry test was conducted. Then he was finally admitted on 22nd March 2012 and died on 26th March 2012. He clarified that *intracerebral haemorrhage* meant internal bleeding in the brain and stated that it could be connected to the injury sustained. However, he clarified in cross-examination that his statement was on the basis of the medical record, and he was present in the Casualty department when patient [deceased] was brought to the hospital for the first time, but was discharged on 03rd December 2011 as no surgical intervention was required.
- c) Even though the CMO states that the bleeding could possibly be connected with injuries sustained, there is no expansion or justification provided based on subsequent treatment records. Moreover, the testimony of the Senior Resident Doctor [**PW-2**] is far more categorical that due to the injury no death could occur and that *intracerebral haemorrhage* could be due to other reasons. Also, there



was no other hospital visit which has been stated by **PW-3**, to be between December 2011 and March 2012.

21. Evidence of **PW-2** and **PW-3** did not support the contention that the *intracerebral haemorrhage* resulting in death on 26th March 2012 was attributable to the accident dated 30th November 2011. It was also noted that the deceased had been discharged from hospital in a satisfactory condition within a few days of admission, there was no continuous treatment record demonstrating progressive neurological complications, and no post-mortem examination was conducted to ascertain the precise cause of death. Lapse of approximately 116 days between the accident and the death, in absence of supporting medical evidence bridging this interval, further weakens the claim of proximate causation. This Court finds no infirmity in the MACT's conclusion that the requisite nexus between the accident injuries and the death of the deceased was not established on the standard of preponderance of probabilities applicable under *Section 166* of the Motor Vehicles Act.

22. It is well settled in tort jurisprudence that liability for damages extends only to those consequences which bear a proximate and reasonably foreseeable relationship to the negligent act. In the celebrated decision, *Overseas Tankship (U.K.) Ltd. and Morts Dock & Engineering Co. Ltd. (The Wagon Mound)*, [1961] A.C. 388, the House of Lords observed that where the eventual injury complained of is not shown to be a probable or foreseeable consequence of the original act, the chain of causation is treated as broken and compensation cannot be sustained on the basis of remote consequences. For ease of reference, relevant paragraph is extracted as under:



*“Their Lordships conclude this part of the case with some general observations. They have been concerned primarily to displace the proposition that unforeseeability is irrelevant if damage is “direct.” In doing so they have inevitably insisted that the essential factor in determining liability is whether the damage is of such a kind as the reasonable man should have foreseen. This accords with the general view thus stated by Lord Atkin in *Donoghue v. Stevenson* : “The liability for negligence, whether you style it such or treat it as in other systems as a species of ‘culpa,’ is no doubt based upon a general public sentiment of moral wrongdoing for which the offender must pay.” It is a departure from this sovereign principle if liability is made to depend solely on the damage being the “direct” or “natural” consequence of the precedent act. Who knows or can be assumed to know all the processes of nature? But if it would be wrong that a man should be held liable for damage unpredictable by a reasonable man because it was “direct” or “natural,” equally it would be wrong that he should escape liability, however “indirect” the damage, if he foresaw or could reasonably foresee the intervening events which led to its being done: cf. *Woods v. Duncan*. Thus foreseeability becomes the effective test. In reasserting this principle their Lordships conceive that they do not depart from, but follow and develop, the law of negligence as laid down by Baron Alderson in *Blyth v. Birmingham Waterworks Co.*”*

23. Applying the aforesaid principles to the facts of the present case, the medical evidence on record does not establish that the *intracerebral haemorrhage* which resulted in the death of *Gulzar* on 26th March 2012 was a probable or foreseeable consequence of the injuries sustained in the accident dated 30th November 2011. In these circumstances, the claimants



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have failed to establish the requisite proximate causal nexus between the accident and the subsequent death of the deceased, and finding of MACT that compensation was not payable warrants no interference.

24. Accordingly, this Appeal stands dismissed.
25. Pending applications (if any) are rendered as infructuous.
26. Judgement be uploaded to the website of this Court.

(ANISH DAYAL)
JUDGE

APRIL 01, 2026/sm/tk