



2026:DHC:7421



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

Reserved on: 27th July 2026.

Pronounced on: 02nd September 2026.

Uploaded on: 03rd September 2026

+ **MAC.APP. 85/2018**

VIKRAM & ORS

.....Appellants

Through: Mr. S.N. Parashar and Mr. Ritik Singh, Advs.

versus

**DEEPAK BAKSHI & ORS. (ROYAL SUNDRAM ALLIANCE
INS. COMPANY LTD.)**

.....Respondents

Through: Ms. Suman Bagga and Ms. Mouli Sharma, Advs. for Insurance Company.

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

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ANISH DAYAL, J.

1. This appeal has been filed assailing the award dated 28th October 2017 passed by the Motor Accident Claims Tribunal, Karkardooma Courts (*'MACT/Tribunal'*), in MACT no. 220/2017, whereby the claim petition filed by legal representatives of the deceased, *Phoolwati*, was rejected.

2. The accident in question occurred on 03rd November 2016, when *Smt. Phoolwati*, deceased, was walking from her house towards B Block, Sangam Vihar, Loni, Ghaziabad, and was hit by a car bearing registration No. HR-55W-8629, allegedly driven by respondent no.1 and owned by respondent no.2 at a high speed and in a rash and negligent manner. As a result of the accident, she fell on the road and sustained grievous



injuries. She was immediately taken to Gopal Hospital, Shanti Nagar, where she was declared “*brought dead*”.

Submission on behalf of claimants

3. *Mr. Prashar*, counsel for the claimant, submitted that the Tribunal erred in dismissing the claim petition on the ground that rash and negligent driving of the offending vehicle was not proved. The evidence on record, when considered as a whole, establishes the involvement of the offending vehicle and the manner in which the accident occurred.

4. In support of his contention, he relied upon the following:

(i) The accident took place on 03rd November 2016 at about 11:30 a.m and the FIR was registered on the same day, within about one hour of the accident, on the basis of a written complaint.

(ii) FIR was registered against the offending vehicle bearing registration No. HR-55W-8629, in which the involvement of the offending vehicle has been recorded. Further, the FIR later culminated in a chargesheet.

(iii) Site plan was also prepared on the same day.

(iv) Mechanical inspection report of the offending vehicle was also prepared on the following day, i.e. 04th November 2016, and damage can be seen to its front portion/headlight was found.

5. Therefore, he stated that the material on record is sufficient to establish that the accident occurred due to the rash and negligent driving of respondent no.1. The finding to the contrary therefore warrants interference.

6. He further contended that the evidence of **PW2**, *Rahul*, was rejected only on the ground that there was a discrepancy in his testimony



regarding his presence with the deceased. It is submitted that the said discrepancy was not sufficient to discard his entire testimony. Although *Rahul* did not specifically state in his examination-in-chief that he was accompanying his mother, he stated during cross-examination that he was going with her.

7. Moreover, he contended that even if considered that the testimony is not reliable, FIR was registered, which culminated in a chargesheet. In support of his contention, he relies upon the judgment of *Ranjeet v. Abdul Kayam Neb* 2025 SCC OnLine SC 497, wherein the Court noted that where there is no evidence of eyewitness other evidence, such as FIR, Chargesheet needs to be taken into account.

Submissions On Behalf of Insurance Company

8. *Ms. Suman Bagga*, Counsel for Insurance Company, in defence, stated that the claimant's case on negligence rests substantially upon the testimony of **PW2 Rahul**, who claims to be an eyewitness. However, his own testimony creates doubt about his presence at the spot, as has been noted by the MACT in the impugned award.

9. She drew the attention of the Court to the testimony of *Rahul*, wherein, in his examination-in-chief, he did not state that he was accompanying the deceased. She pointed out that it was only during cross-examination that he stated that he was going with his mother.

10. Moreover, the fact that *Rahul* lodged the FIR does not establish that he had personally witnessed the accident. A complainant may lodge an FIR on the basis of information received from another person. Therefore, the FIR cannot be treated as substantive evidence of



negligence. Furthermore, the chargesheet also cannot be treated as proof of negligence.

11. Therefore, she contended that registration of FIR and the complaint is nothing but an afterthought.

12. The Tribunal, after evaluating the evidence, found the testimony of *Rahul* unreliable and held that negligence had not been established. Therefore, the claimant was unable to establish his claim and, therefore, the Tribunal has rightly dismissed the claim.

13. She further stated that without prejudice, even if the involvement of the offending vehicle is accepted, involvement of the vehicle by itself is not sufficient to maintain a claim under Section 166 of the Motor Vehicles Act. Where negligence is not proved, an award under Section 166 cannot be granted merely because the vehicle was involved in the accident. At best, compensation can be granted under Section 163A of MV Act.

14. She also drew attention notification dated 22nd May 2018, whereby S.163A of MV Act was amended and, following which, in case of fatal accident, a lump sum compensation of *Rs. 5 Lakhs* is awarded.

Impugned award

15. The Tribunal noted that the testimony of **PW2, Rahul**, the alleged eyewitness, was unreliable on account of material inconsistencies, including the absence of any disclosure in the FIR, claim petition or examination-in-chief that he was accompanying the deceased.

16. Tribunal also noted that the other persons cited as eyewitnesses in the police report were not examined.



17. As regards the other evidence on record, MACT held that the proof of negligence is *sine qua non* to succeed in claim petition and mere registration of criminal case against driver cannot attract negligence on the part of driver of the offending vehicle.

18. MACT concluded that the claimant failed to prove that the accident occurred due to rash and negligent driving of respondent no.1 and that the deceased died on account of injuries sustained in accident in question.

Analysis

19. To assess the contention of the claimant regarding both the involvement of the alleged offending vehicle and proof of its involvement in the accident, a few aspects need to be examined and appreciated:

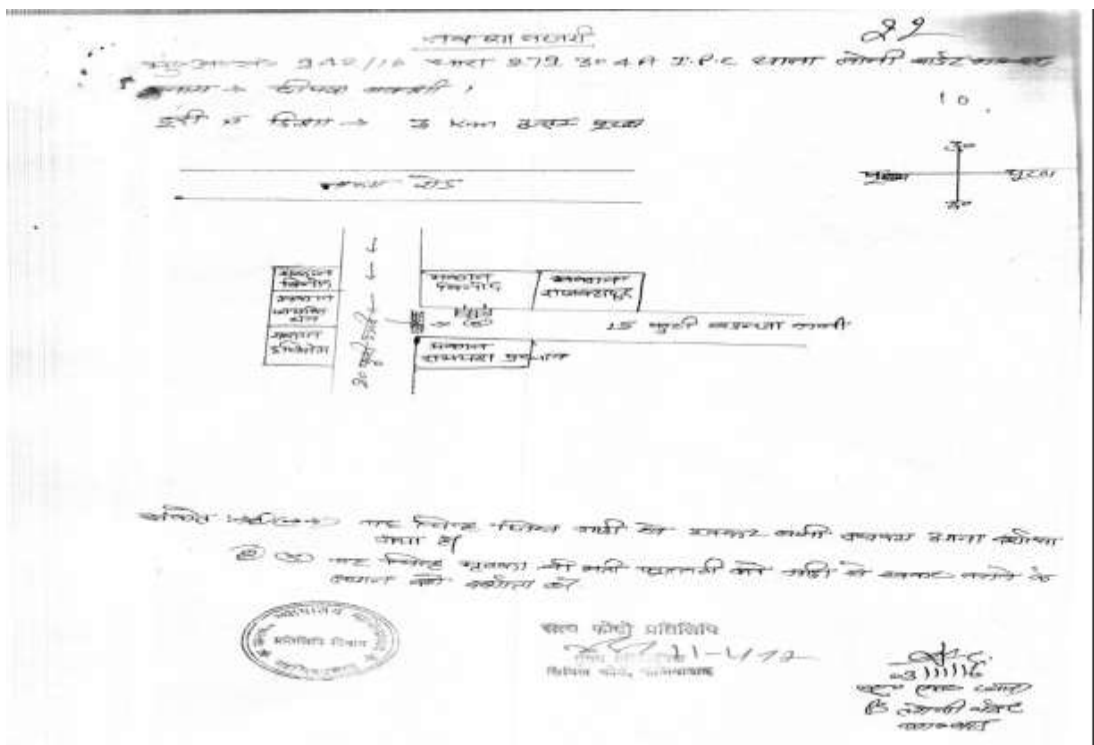
- i. **Firstly**, the accident is alleged to have occurred on 03rd November 2016 at about 11:30 a.m., resulting in the death of *Smt. Phoolwati*. In this regard, an FIR was registered on 03rd November 2016 at 01:00 p.m. Charge-sheet was subsequently filed on 14th November 2016, charging the driver of the offending vehicle, *Deepak Bakshi*, under Sections 279/304A of the Indian Penal Code (***IPC***);
- ii. **Secondly**, the FIR was registered on the basis of a written complaint made by the complainant, *Rahul*, as stated in the FIR itself. The FIR bears General Diary Entry No. 019 at 01:00 p.m. The accused is initially described as an unknown driver driving a car bearing registration number HR 55W 8629;



2026:DHC:7421



- iii. **Thirdly**, the complaint on the basis of which the FIR was registered was a written complaint signed by *Rahul*, containing his address and phone number and dated 03rd November 2016. It states that at about 11:30 a.m. on 03rd November 2016, his mother, *Smt. Phoolwati*, was on the road in front of the *Pradhan*'s house, at the turn, when a fast-driven Celerio bearing registration number HR-55W-8629 collided with her. His mother sustained grievous injuries and was taken to Gopal Hospital, Shanti Nagar, where she was declared 'brought dead'; and
- iv. **Fourthly**, the site plan, which forms part of the investigation and is extracted hereinbelow, shows the house of the *Pradhan* and, immediately opposite it, the turn where the accident occurred. The site plan indicates that the offending vehicle appears to have taken a left turn at the said point and collided with the deceased. For ease of reference the site pan is extracted as under:





20. On the basis of the aforesaid material, the Court has to consider whether the involvement of the offending vehicle and the negligence of its driver stand established so as to sustain the claim.

21. It is quite clear from this sequence of events that the complaint was lodged immediately by *Rahul*, on the basis of which the FIR was registered immediately thereafter at 01.00 p.m. The deceased was taken to the identified *Gopal Hospital*, where she was declared ‘*brought dead*’.

22. There is no lapse of time in this sequence of events which could suggest that the FIR was subsequently registered by introducing or implanting a vehicle. It would be very difficult to assume that the offending vehicle was subsequently introduced into the case in these circumstances. In fact, the charge-sheet was also filed within 10 days.

23. Without entering into the debate regarding credibility of the eyewitness, even on this aspect, applying the principles enunciated by the Supreme Court in *Ranjeet* (*supra*), the involvement of the offending vehicle cannot be doubted. For ease of reference, relevant paragraphs of *Ranjeet* (*supra*) are extracted as under:

“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 Tribunal, 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 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.

5. In view of the aforesaid facts, we are of the opinion that the Tribunal and the High Court both manifestly erred in law in refusing to grant any compensation to the claimants.”

(emphasis added)

24. Even in the absence of an eyewitness, the fact that an FIR was registered promptly and a charge-sheet was filed pursuant to investigation would, on the facts of the present case, support the claimant's case regarding the involvement of the offending vehicle and negligence.

25. Notwithstanding the above, considerable argument was raised on the credibility of the eyewitness, *Rahul*; therefore, the same needs to be examined.

26. *Rahul* has categorically stated in his affidavit, duly tendered in evidence, that he was an eyewitness. He states that the accident occurred near *Ramyas Pradhan House, Sangam Vihar, PS Loni Boarder, District, Ghaziabad*, where the offending vehicle, being driven rashly and negligently, violating traffic rules without blowing any horn, came from the front side and hit his mother with great force.

27. He states that she fell on the road, sustained grievous injuries and was taken to *Gopal Hospital, Shanti Nagar*, where she was declared brought dead. The *post-mortem* was conducted at mortuary, *Distt. Hospital, Ghaziabad, UP*.

28. The MACT discussed the cross-examination and reached a finding that this evidence has a lot of contradictions. Therefore, it is apparent that the testimony of *Rahul* should be examined.



29. The first aspect is that *Rahul* was possibly not going along with his mother, *Phoolwati*, at the time of the accident since he did not specifically state in his affidavit that he was accompanying her.

30. However, after examining all the circumstances as discussed above, a mere omission to state that he was not accompanying his mother may not be relevant, considering he does state that he was an eyewitness and he described the accident in great detail. In his testimony, he stated that he took note of the registration number of the offending vehicle and immediately reported the accident to the police by filing a written complaint to the police. He further stated that he accompanied his mother to the hospital and was there when the body of his deceased mother was being taken to the mortuary.

31. It would, therefore, be difficult to discard his testimony as not credible merely because he did not elaborate upon the circumstances in which he witnessed the accident or specifically state that he was accompanying his mother.

32. The other aspect, which was taken into account by the MACT, is that *Rahul* stated that the accident occurred at 11:30 a.m., and that the police recorded his statement at about 11:30 a.m. This, in the case of a witness who is being examined much later after the accident and giving his testimony in a Court environment, can be ignored for the simple reason that he also clarifies that the hospital was 200 to 300 metres away and that he took his mother by auto to the hospital. For a son to see his mother being crushed under a car, in a state of complete distress and having suffered grievous injuries, it is quite possible for him to be



flustered at that time and not know the exact timing, down to the minute, when these events took place.

33. The other aspect concerning the credibility of the witness relates to the rest of his testimony. *Rahul* merely stated that he was not present at the spot when the police reached there. This indicates that he had already gone to the hospital and that the police reached the spot thereafter, particularly since the police had first met him at the hospital. It is therefore alleged that there is a contradiction in his statement, since he states he did not know “*after how much time the police reached at the spot*”.

34. His testimony is, in fact, corroborated by his statement in cross-examination that police officials met him outside the hospital after about 15-20 minutes and were there when he took his mother to the mortuary.

35. It was also argued that *Rahul*, in his statement and cross-examination, did not know the name of the hospital where the *post-mortem* of his mother was conducted. This cannot be a determinative issue, considering that he does state that it was a district hospital mortuary, and, possibly, when questioned by the counsel cross-examining him, he simply did not know the exact name of the hospital where the *post-mortem* was conducted.

36. Much argument was also made about the person who lodged the FIR. As stated above, the FIR was lodged on the basis of the written complaint by *Rahul*. As to whether the police were persuaded at that time by *Rahul* has been clearly explained by him, stating that he had informed his elder brother, *Vikram*, about the accident, who was not present at the time of the accident, and that “*he lodged the FIR*”.



37. This could mean that, on the basis of the written complaint, the FIR was registered, and *Vikram* may have been the one who pursued the matter at the police station, rather than *Rahul*, considering that he was taking care of his mother's situation at that time.

38. Moreover, the mechanical inspection report also seems to suggest that there was damage to the front side of the offending vehicle, which was examined on 04th November 2016, i.e., a day after the accident.

39. The investigation seems to have been pursued quickly, and there is no delay to suggest that a vehicle would have been implanted. The witness seems to be credible and, therefore, considering all the facts and circumstances on the *preponderance of probabilities*, the claim ought not to have been rejected.

40. Aside from this, the doctrine of *res ipsa loquitur*, which is a well-recognised doctrine in the law of negligence, may also be apply to the present circumstances.

41. The doctrine enables a Court to draw an inference of negligence from the very nature of the accident where the occurrence is such that, in the ordinary course of events, it would not have happened without negligence.

42. The surrounding facts themselves constitute *prima facie* evidence of negligence, thereby shifting the evidentiary burden to the person who had control over the offending vehicle to provide an explanation.

43. This aspect has been discussed in some detail by this Court in *paragraphs no. 31-37 of National Insurance Company Ltd. v. Shehnaaz Begum & Ors.*, 2026:DHC:316; the relevant paras are as under:



“31. *Res ipsa loquitur* means “the things speak for itself”, is a well-recognised doctrine in the law of negligence. The doctrine enables a court to draw an inference of negligence from the very nature of the accident, where the occurrence is such that, in the ordinary course of events, it would not have happened without negligence. In such circumstances, the surrounding facts themselves constitute prima facie evidence of negligence, thereby shifting the evidentiary burden onto the person who had control over the instrumentality causing the injury to provide an explanation consistent with due care.

37. Thus, where direct evidence regarding the manner of the accident is unavailable, the Tribunal is entitled to examine the surrounding circumstances and assess whether the occurrence is of such a nature that negligence can reasonably be inferred. In such cases, the doctrine of *res ipsa loquitur* operates as a rule of evidence enabling the Tribunal, on the touchstone of preponderance of probabilities, to determine whether the accident itself provides a reasonable basis to infer negligence.”

(emphasis added)

44. This principle sometimes operates as a rule of evidence enabling the Tribunal, on the touchstone of *preponderance of probabilities*, to determine whether the accident itself provides a reasonable basis for negligence. The deceased was a pedestrian and therefore the duty of care of the offending vehicle driver was inherent.

45. In this regard, there was nothing adverse which was offered by the testimony of the owner. He simply stated that the accident did not occur due to the negligence of the driver. He then goes on to state, “if any accident caused due to the negligence on the part of driver of the



deponent, the driver of the deponent was having a valid and effective driver license at the time of the accident”.

46. There was no cross-examination of the owner by the Insurance Company to elicit any information as to whether the offending vehicle was not present at the place and time of the accident or was elsewhere.

47. In cross-examination, the owner, examined as **R2W1**, simply stated, “*it is correct that Sh. Deepak Bakshi was my driver at the time of the accident*”. The rest of the cross-examination concerned the driving licence aspect, which would not have any relevance to the maintainability of the claim petition.

48. Moreover, the driver was not examined to give any evidence adverse to the allegation that he caused the accident.

Conclusions

49. Accordingly, this Court finds that the driver of the offending vehicle was negligent and that the accident occurred due to his rash and negligent driving.

50. The involvement of the offending vehicle and the negligence of its driver stand established on the touchstone of preponderance of probabilities.

51. Upon perusal of the material on record, including site plan, testimony of eyewitness, complaint filed by *Rahul*, FIR, etc. and surrounding circumstances of the accident also attract the doctrine of *res ipsa loquitur*, the nature of the occurrence itself furnishing a reasonable basis to infer negligence.



2026:DHC:7421



52. Once such a *prima facie* inference of negligence is established, the burden lies upon the driver of the offending vehicle to furnish an explanation consistent with due care. However, the owner and the driver failed to provide any explanation to the contrary.

53. Therefore, no evidence was led either before the MACT or before this Court by the driver or owner to displace the inference arising from the material on record.

54. Accordingly, the appeal is allowed.

55. Considering that compensation would have to be ascertained, the Court is remanding the matter to the MACT for computation of compensation.

56. Accordingly, list the matter before the MACT on 1st October 2026.

57. Since the accident occurred in 2016, nearly a decade ago, the MACT may endeavour to conclude the proceedings within a period of five months.

58. Judgment be uploaded on the website of this Court.

(ANISH DAYAL)
JUDGE

SEPTEMBER 02, 2026/RK/bp