



2026:DHC:8560



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

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*Reserved on : 24th September 2026
Pronounced on : 05th October 2026
Uploaded on : 06th October 2026*

CNR No. DLHC012505452015

+ **MAC.APP. 440/2015**

USHA GUPTA & ANR

.....Appellant

Through: Mr. Kartik Shankar, Adv with Ms.
Kanchan Shankar, Mr. Tungesh and
Ms. Manisha, Advocates.

versus

**YOGENDRA PAL SINGH & ANR (RELIANCE GENERAL
INSURANCE LTD)**

.....Respondents

Through: Mr. A.K. Soni, Advocate for
Insurance Company.

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

ANISH DAYAL, J.

1. This appeal has been filed by the claimant seeking setting aside of impugned judgment dated 26th February 2015 passed by the Motor Accident Claims Tribunal, East District, Karkardooma Courts, Delhi ('*Tribunal/MACT*') in MAC Petition No.267/2011, whereby the claim of the appellant/claimant was dismissed on the ground that claimant have not been able to prove the involvement of the offending vehicle.

The Incident

2. The accident occurred on 28th April 2011 at about 11.30 p.m., when



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the deceased going to his house at Vivek Vihar on his two-wheeler scooter from Surya Nagar, reached near Vivekanand Mahila College. As per the claim, a *Maruti SX4* car bearing registration No. DL-3CBC-4399 (*offending vehicle*), driven by *Yogendra Pal Singh*, hit the scooter. As a result of the impact, he fell down and sustained injuries and subsequently succumbed to his injuries on 04th May 2011. FIR No. 142/2011 was registered at PS Vivek Vihar.

Submissions of Counsels

3. *Mr. Kartik Shankar*, counsel for claimant/appellant, in support of his appeal, stated that there were certain undisputed facts *viz.* that *Satish Kumar Gupta* did die in an accident which took place on 28th April 2011, *Yogendra Pal Singh* is the owner of the offending vehicle, and that the offending vehicle was insured with respondent no.2.

4. The Insurance Company raised an issue that the offending vehicle had actually met with an accident on 28th April 2011, but the accident was in a different place. They presented the claim form from the insured, which mentioned that the accident had happened with a tractor trolley and another vehicle had hit them from behind.

5. *Mr. Kartik Shankar*, counsel for claimant/appellant, drew attention of this Court to order dated 20th August 2011 passed during the MACT proceedings where it was recorded that '*since there is no dispute to the involvement of the offending vehicle and to the fact that the offending vehicle was covered with the insurance policy of respondent no.2 and deceased Satish Kumar Gupta had suffered a fatal road accident by the involvement of vehicle insured with respondent no.2/Insurance Company, an order under*



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Section 140 MV Act of a sum of Rs. 50,000/- for interim relief is separately passed'. Counsel focused on the admission by the Insurance Company.

6. It was further submitted that the owner the offending vehicle had admitted that he was driving the vehicle and the notice under Section 133 of the MV Act was given by the Investigating Officer (**I.O.**).

7. *Mr. A.K. Soni*, counsel for the Insurance Company, essentially stated that the impugned award had, however, proceeded to assess the testimony of the alleged eyewitness **PW2** and **PW4** and then discarded the same due to their being unreliable and inconsistent. It is submitted that the DD entry and FIR did not initially disclose the registration number of the offending vehicle, the name of its driver or the presence of any eye-witness. It is contended that in a petition under Section 166 of the Motor Vehicles Act, negligence is required to be proved by the claimants.

8. It is further contended that the testimonies of **PW-2** and **PW-4** suffer from material contradictions and are rendered unreliable by the evidence of **R2W3**, the General Manager of Sunshine Hotel, who stated that no party/event had taken place at the hotel on 28th April 2011. **PW-4** admittedly did not disclose to the police the make, colour or registration number of the offending vehicle, despite stating that he had been informed of the same by **PW-2** at the spot and that the police had reached the hospital shortly thereafter. **PW-2** also disclosed the registration number only on 01st May 2011. The absence of any contemporaneous reference to the offending vehicle, coupled with these material discrepancies, is therefore relied upon to contend that its involvement in the accident was not established.



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Analysis

9. *Mr. Kartik Shankar* had procured the charge-sheet along with a translation thereof, which was placed on record before this Court. It was submitted that the offending vehicle finds mention in the charge-sheet upon completion of the investigation. Counsel for the appellant/claimant also drew attention to the photographs of the car after the accident and the claim form submitted by the insured, that show that the damage to the car was at the front and that there was no damage at the rear of the vehicle. This assumes significance, in context of the assertion made by the Insurance Company that the insured vehicle met with an accident at about 11:00 p.m. while travelling from Mohan Nagar to Sahibabad, when it was coming from Delhi, and had hit a tractor-trolley, following which another vehicle had also hit it *from behind*. Registration number of neither the tractor-trolley nor the vehicle, which allegedly hit the insured car from behind, was disclosed in the claim form. The claim form was exhibited as **Ex. R2W2/1** and was annexed with the repair estimate dated 03rd May 2011.

10. Yet another testimony which the Insurance Company relied upon was of **R2W3**, *Pankaj Gupta*, who was working in the *Hotel Sunshine Park*, Surya Nagar, Ghaziabad. This was in context of the assertion made by **PW2** and **PW4** that they were all coming back from a marriage anniversary function at *Hotel Sunshine Park*, Surya Nagar, Ghaziabad, which had been organised a common friend, *Rajinder Singhal*. *Satish Kumar Gupta* was travelling on a two-wheeler and **PW2** (*Ramesh Panchal*) was coming in his car, followed later by **PW4** (*Virender Gupta*), who was the cousin of the deceased.

11. *Mr. A.K. Soni* contended that that **R2W3** had stated that there was no



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record of any party held by *Rajinder Singhal* on 28th April 2011 and that the hotel maintained a register of all the parties. However, it is noted that he had not brought the record and merely made a statement, as was evident in his cross-examination.

12. **R2W4**, the Investigating Officer, testified with regard to the investigation record, *inter alia*, **Ex. R2W4/1**, which was the notice issued under Section 133 of the Motor Vehicles Act. The endorsement on the said notice had been made by *Yogender Pal Singh*.

13. **PW2**, *Ramesh Panchal*, in his testimony, stated that on the night of 28th April 2011, they had all gathered at the place of *Rajinder Singhal*, where the party of the anniversary was being held at *Chander Vihar* near *Surya Vihar*. He stated that they were returning to their house from the *Hotel Sunshine Park*, where the function was organized, and *Satish Gupta* had gone earlier and he was following him in a car. At a distance, when *Satish Gupta* took a right turn from the red light of *Vivekanand College* towards *Vivek Vihar Phase-II*, he saw a car bearing registration No.DL-3CBC-4399, driven at speed, which hit the scooter as a result of which scooter fell down. The driver of the car came out to see what had happened and then he fled away.

14. **PW2** stated that he chased the car but he had escaped and then he returned to the spot of the accident. In the meantime, other family members had returned from the same function and they stopped and *Satish Gupta* was taken to the hospital in the car of his cousin (*Vijender*). He stated he was very disturbed and did not accompany him to the hospital. He did not have his mobile phone. On 01st May 2011, he went to the police station and gave a statement. In the cross-examination, he stated that he had gone to the hospital, but no police official contacted him and he got recorded his



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statement on 01st May 2011. He denied all suggestions that were put forth that he had not seen the vehicle and was deposing falsely.

15. **PW4**, *Virender Gupta*, testified that he was also in the celebration of the anniversary of his cousin and her husband at *Hotel Sunshine Park* they were all returning back home. When they reached the point where the accident had taken place, he took injured/*Satish Gupta* in his *Innova* car and admitted him in Max Hospital, Patparganj for treatment. In the cross-examination, he states that he did not know whether his statement was recorded by police but he was orally questioned in the hospital by the police. Police came to the hospital within 1 or 2 hours of the accident.

16. **PW4** stated he did not tell the police about the offending vehicle, its number, colour or its make as his priority was to take his brother to the hospital immediately. He did confirm that *Ramesh Panchal* had told him about the make, colour and the number of the offending vehicle, but he did not pay attention to it as he was involved in taking care of his cousin. He stated that he had seen the offending car hitting his cousin from a distance of about 100 to 200 metres, but could not make note of the number or make of the car. He denied the suggestions that he was deposing falsely.

17. Though the MACT has considered the testimonies of these witnesses as not credible, the same have to be viewed from a different prism and in conjunction with the other surrounding circumstances so as to join the dots.

18. In the opinion of this Court, the following aspects would have to be considered:



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- (i) Both **PW2** and **PW4** are consistent in their testimonies as regards where they were coming from and have furnished specific details regarding the anniversary function at the hotel.
- (ii) Both of them were also aligned on the fact that the family and friends were all coming back and the distance was only about half to one kilometre and that *Satish Gupta* was riding ahead of them. While **PW2** was immediately following *Satish Gupta*, **PW4** was about 100-200 meters behind. Naturally **PW2** saw the accident, chased the vehicle and noted the offending vehicle's number and then told it to **PW4**. The same is also corroborated by the testimony of **PW4**. **PW2** also stated that he let **PW4** take the deceased to the hospital which **PW4** also confirms in his testimony.
- (iii) **PW2** thereafter stated that he did not go to the hospital and subsequently made a statement on 01st May 2011, two days later. This cannot be considered unusual considering the fact that the *Satish Gupta* had received grievous injuries and had to go through immediate emergency medical procedure. As per the MLC and *post mortem* report, he was admitted on 29th April 2011 at 12:10 a.m. and was finally passed away on 04th May 2011. Therefore, there was sense of urgency in the family to take care of him first and, therefore, it is quite possible that they did not report it to the police. The reporting to the police did happen on 01st May 2011, just a day later.
- (iv) As regards why the registration number of the offending vehicle was not mentioned in the FIR, which may appear unusual, the same could possibly be attributed to an omission or lapse on the part of



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the Investigating Officer. In any event, the details of the offending vehicle are recorded in the charge-sheet.

- (v) As regards the damage to the offending vehicle, it is pertinent to note that the owner of the vehicle, in response to the notice under Section 133 of the Motor Vehicles Act, admitted that he owned the car which was involved in the accident. However, a claim form was subsequently filed stating that the accident had occurred elsewhere, where the vehicle had hit the rear of a tractor-trolley and was thereafter hit by another car from behind. The photographs annexed with the claim form, however, do not show any damage to the rear portion of the vehicle and instead show damage only to its front portion. The nature of the damage is consistent with a collision involving the front of the vehicle, possibly with a two-wheeler, as in the present case. It would, therefore, appear that the claim form was filed to cover the involvement of the vehicle and to put forward a different version of the accident.

19. Counsel for appellant has relied upon the decision of Supreme Court in *Firoz Khan Akbarkhan v. State of Maharashtra* 2025:INSC:387, wherein it has been laid down that delay in recording an eye witness's testimony would not draw an adverse influence, if the delay is adequately explained. Also, in *Goutam Joardar v. State of W.B.*, (2022) 17 SCC 549, the Supreme Court held that the mere factum of delay in recording the testimonies of eyewitness cannot result in rejection of their testimonies.

20. Moreover, it cannot be denied that negligence has to be proved on preponderance of probabilities and not beyond reasonable doubt. It is not denied that the charge sheet had been filed and there is nothing on record to



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state that a protest petition had been filed.

21. As regards the FIR, it is noted that it was registered on the basis of one PCR call and the statement was finally made on 01st May 2011. Reliance is placed on ***Kuncham Lavanya v. Bajaj Allianz General Insurance Co. Ltd.***, 2025 SCC OnLine SC 749 where it is stated as under:

“17. The very fact that the case was registered against an unknown vehicle initially would indicate that the offending vehicle was not identified. However, since an FIR is not expected to be encyclopaedic² and is only for the purpose of putting into motion criminal law such that thorough and full-fledged investigation by the police ensues, it is the duty of the investigating agency to find out the identity of the culprit which in the present case would be the offending car and driver and take action in accordance with law. Thus, the mere fact that initially the FIR records the vehicle as unknown would not be fatal for the prosecution/claimants to later come up with the specific identity of the vehicle/driver, with the obvious caveat that the connection of the accident with the said vehicle has to be based on cogent and reliable evidence. In the present case, the factor in favour of the Insurance company is that the conduct of the so-called eye-witness (PW2/U.V. Atriya), who was a consumer at a paan-shop, gives his statement to the police about two and a half months after the accident disclosing the registration number of the offending vehicle. This raises serious doubts on the authenticity thereof as he states that he had noted it on a piece of paper and when he again visited the spot after 15 days, he came to know that the injured had passed away but even after lapse of the said 15 days, he neither informed the paan-shop owner nor produced/handed over the chit of paper to the police on which he claims the registration number of the offended vehicle was noted.”

(emphasis added)



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22. Reliance on the testimony of **R2W3**, *Pankaj Gupta from Hotel Sunshine Park*, may not be tenable considering he did not get any records with himself and was only making a statement and was a witness summoned by the Insurance Company. As against his testimony, there were testimonies of both **PW2** and **PW4** with corroborating details of the function they had attended.

23. The MLC notes that the accompanying person, to the injured, is *Mr. V. K. Gupta*. The history is of a road traffic accident at 11.30 p.m. near *Mahila College at Vivek Vihar*. The Mechanical Inspection Report of *Maruti SX4* car also shows that there was a left front side windscreen glass dented and has been painted freshly and that the car repaired and painted freshly on the front number plate and some marks on the front grille. The mechanical inspection was conducted on 11th May 2011. This also dilutes and erodes the assertion that the vehicle was involved in an accident where it collided from both the front and the rear.

24. It is well settled by a catena of judgments of the Supreme Court that claims under the Motor Vehicles Act are to be established on the touchstone of preponderance of probabilities and not beyond reasonable doubt. Where the evidence renders one version more probable than not, the claimant's burden stands discharged. Reliance in this regard may be placed on the judgment of ***Bimla Devi v. Himachal RTC***, (2009) 13 SCC 530, which was subsequently followed in ***Geeta Dubey v. United India Insurance Co. Ltd.***, 2024 SCC OnLine SC 3779. The relevant paragraph of ***Bimla Devi*** (*supra*) is extracted as below:

“15. In a situation of this nature, the Tribunal has rightly taken a holistic view of the matter. It was necessary to



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be borne in mind that strict proof of an accident caused by a particular bus in a particular manner may not be possible to be done by the claimants. The claimants were merely to establish their case on the touchstone of preponderance of probability. The standard of proof beyond reasonable doubt could not have been applied. For the said purpose, the High Court should have taken into consideration the respective stories set forth by both the parties.

(emphasis supplied)

25. The Supreme Court in ***M. Siddiq v. Suresh Das***, (2020) 1 SCC 1, discussed that preponderance is decided based on test of prudent man. Preponderance is when, basis the evidence an event is more probable than not, and the burden stands discharged. There is no need to reach certainty, but must carry a high degree of probability.

26. What transpires from the testimony and evidence, assessed above, is that the testimonies of **PW2** and **PW4**, when read together with the MLC, the mechanical inspection report, the notice under Section 133 of the MV Act and the charge sheet, sufficiently corroborate the involvement of the offending vehicle in the accident. The discrepancies regarding the initial non-disclosure of the registration number in the FIR and the subsequent recording of the statements of the eyewitnesses do not, in the facts and circumstances of the present case, outweigh the other corroborative evidence on record. The version of the Insurance Company regarding the vehicle having met with an accident at a different location is also not supported by the damage reflected in the mechanical inspection report and the photographs forming part of the claim form. The evidence, therefore, when considered cumulatively, makes the claimant's version more probable than the contrary version set up by the Insurance Company.



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27. In view of the above, the involvement of the offending vehicle in causing the accident and the negligence on the part of its driver stand established on the touchstone of preponderance of probabilities. The only issue that survives for consideration in the matter is the determination of the quantum of compensation.

28. Accordingly, the matter is remanded to the MACT for determination of the quantum of compensation. Considering that the accident occurred in 2011 and the award was passed in 2015, the MACT is directed to decide the issue of quantum of compensation within a period of three months from the date of this judgment.

29. List before the MACT on 28th October 2026.

30. Appeal is disposed of in the above terms.

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

32. Copy of this judgment be sent to the concerned MACT.

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

(ANISH DAYAL)
JUDGE

OCTOBER 5, 2026/ak/zb