



2026:DHC:1958



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

% *Reserved on* : *18th February 2026*
Pronounced on : *10th March 2026*
Uploaded on : *11th March 2026*

+ **MAC.APP. 127/2018**

RELIANCE GENERAL INSURANCE COMPANY LTD

.....Appellant

Through: Ms. Perna Mehta, Adv.

versus

ANIL SRIVATAVA & ORS

.....Respondents

Through: Ms. Aruna Mehta and Mr. Lakshay
Mehta, Advs. for R-1 & 2.

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

ANISH DAYAL, J.

1. Appellant/Insurance Company assails impugned award dated 14th December 2017 by Motor Accident Claims Tribunal, Rohini Courts ('*MACT/Tribunal*') which awarded a compensation of *Rs.16,50,000/-* with *9% per annum* interest in favour of the respondent nos.1 & 2 (the father and the mother of the deceased).

2. The Insurance Company states that as per the evidence, which was placed before the MACT, the accident could not have happened due to the negligence of the driver of the offending vehicle.

The incident

3. The accident occurred on 5th June 2010 at about 1:00 a.m. near Y-



point Crossing Hodal, when *Akash* (deceased) while travelling from Keshavpuram, Delhi to Kokla Van in a *Maruti Alto* along with 3 other friends, being driven by *Rohit Arora* (respondent no.3/driver), hit the offending truck on the rear side when he tried to overtake the car ahead of it at a high speed and swerved to the left side upon noticing a bus approaching from the front towards his side

4. The truck driver fled away from the spot. *Akash* along with other friends was taken to hospital, shifted to AIIMS and was declared brought dead.

5. A complaint was sent to PS Hodal on 27th August 2010 and DD No.11 was registered but was not converted into an FIR, since the car was in a faulty condition by medical inspection.

6. Father of the deceased, *Sh. Anil Srivastava*, published a notice in the newspaper stating that if anybody had witnessed the sad accident. On that basis it was alleged that **PW1/Mahender Kumar** approached the father and stated that he was ready to give his statement.

Impugned Judgment

7. The Tribunal framed the following issues:

I) *Whether Akash Srivastava died on 05.06.2010 at about 01:00 p.m., at Y point crossing Hodal due to involvement of vehicle no. DL-9CK-8275, which was being driven rashly and negligently by its driver?*

II) *Whether the petitioners are entitled for compensation, if so, to what*



amount and from whom?

8. Deceased's income was proved to be Rs.10,000/- per month as Assistant Marketing Executive under project infrastructure at *Subhash Place, Pitampura, Delhi* and 50% from monthly salary was deduced towards personal expenses. Multiplier of 20 was applied as the age of the deceased was 20 years at the time of accident. *Future prospect* was awarded at 50% as the deceased had a permanent job and earned a fixed salary and was below 40 years of age. Accordingly, an amount of Rs. 16,20,000/- was awarded towards *loss of income*. An amount of Rs. 15,000/- was awarded towards *funeral expenses* and another Rs. 15,000/- towards *loss of estate*. Accordingly, a total compensation of Rs. 16,50,000/- along with 9% interest *per annum* was granted in favour of claimants.

Submissions on behalf of appellant

9. *Ms. Prerna Mehta*, counsel appearing on behalf of appellant/Insurance Company, contended that no FIR was registered and, therefore, the MACT merely assessed the evidence on record and held that *Akash Srivastava* died due to involvement of the offending vehicle bearing registration No. DL-9CK-8275/*Maruti Alto*, which was allegedly being driven rashly and negligently by its driver, *Rohit Arora*.

10. It is submitted that there were two primary witnesses whose testimonies were completely contradictory, regarding the manner of accident.

11. **PW1**, *Mahender Kumar*, made a statement dated 14th April 2011 stating that he used to frequently visit *Kokla Van, Shani Mandir* and, on 4th



June 2010, he was going on his motorcycle to take the blessings at the temple started from Delhi at about 8:00 p.m. When he reached the Y-Point Hodal, at about 12.50 a.m. on 5th June 2010, he parked his motorcycle at the corner of the road to answer nature's call. When he was returning back to his motorcycle, he saw a *Maruti Alto* car bearing registration No. DL-9CK-8275 coming from behind at a very high speed. At that time, one car was going ahead of the said vehicle, and a truck was also ahead of that car. The driver of the *Maruti Alto* overtook the car in front but, on noticing a bus approaching from the opposite direction at a high speed, swerved towards the left, lost control of the vehicle, and struck the rear side of the truck.

12. As a result, the front portion of *Maruti Alto* was damaged, and all the four occupants sustained injuries. *Mahender Kumar* stated that he helped them to arrange another vehicle and the driver identified himself as *Rohit Arora* and stated that he would admit *Akash Srivastava* in the nearby hospital and arrange First Aid for himself and other friends. He came to know while reading the *Hari Bhumi* newspaper on 20th February 2011, regarding the notice published by the father of the deceased *Akash Srivastava*, which also carried a photograph of the deceased. He recognized the deceased as the same person involved in the accident. Thereafter, he contacted the father of the deceased as a good samaritan on 21st February 2011 and informed him about the details of the accident.

13. The father of the deceased met *Mahender Kumar* on 12th April 2011 and requested him to record his statement before the police. Accordingly, this written statement dated 14th April 2011 was given.



14. *Ms. Prerna Mehta*, counsel for appellant/Insurance Company, referred to the cross-examination of *Mahender Kumar* done by counsel for respondent nos. 3 & 4 (driver and owner before the MACT). He stated that he was standing adjacent to the road at a distance of about 5 to 10 steps, and he saw the car from a distance of 15 to 20 steps. He noted the number of the car when it stopped due to the accident. He further stated that the highway had two carriageways and that the alleged offending car driven by *Rohit Arora* first ran over the divider and was in the process of overtaking the car going in front but dashed into the truck going ahead of the car. According to him, the divider was only about *half inches* in height, and there was another bus coming from the other carriageway. He stated that this process took hardly two minutes and that both the offending car and the car ahead were travelling at approximately *80 km/hr*. He said the offending car stopped at a distance of 25 to 30 meters away from him.

15. He further stated he did not make a PCR call as he did not have a mobile but stayed on the spot of the incident for about 10 minutes and went to the local police along with the father of the deceased to lodge a complaint.

16. Further, he stated that the *Hari Bhumi* newspaper was read by his father and he had come to depose at the instance of the petitioner. He denied the suggestion that the accident occurred due to the stepney tyre of the truck falling off and hitting the front glass of the offending car, as alleged by *Rohit Arora*.

17. Contrary to the deposition of **PW1**, *Rohit Arora* deposed that while he was driving the car towards the *Shani Temple*, the stepney of a



truck/trawler travelling ahead became detached and struck the bonnet and front glass of his car, resulting in injuries to the deceased, who was seated beside him, and to the other occupants. According to him, there was no rashness or negligence on his part. He further stated that, in these circumstances, no FIR was registered.

18. *Ms. Prerna Mehta* stated that the testimony of **PW1** was highly inconsistent, particularly in the cross-examination, where he seemed to have been deliberately planted by the father of the deceased. She contended that, in light of these contradictions and as per the testimony of *Rohit Arora*, driver of the offending vehicle, the issue of negligence ought to have been decided differently by the MACT.

Submissions on behalf of claimants

19. *Ms. Aruna Mehta*, counsel appearing on behalf of the claimants, contended that *Rohit Arora* had admitted the occurrence of the accident in the DD entry dated 7th June 2010. She submitted that, even as per the testimony of *Rohit Arora*, he was driving his vehicle in close proximity to the truck ahead, and if stepney fell and struck his vehicle, it itself reflected lack of due care and caution on his part.

20. She contended that **PW1** had clearly proved that the negligence was on the part of *Rohit Arora*, who, in an attempt to overtake the car in front, ran over the divider and, on noticing an oncoming bus, swerved and collided against the truck in front.

21. She stated that registration of an FIR is not necessary for establishing negligence and considering that DD entry had been registered, it was



enough to prove that an accident had taken place.

22. In support of her submissions, she relied upon the following judgments:

- (i) ***Nishan Singh & Ors. Vs Oriental Insurance Co. Ltd.*** 2018 (6) SCC 765, in particular *paragraph 12*, on the fact that since the collision was from behind, it was the duty of the vehicle which is behind to follow *Regulation 23 of the Rules of the Road Regulations, 1989*. The relevant para is extracted as under:

“The finding so recorded by the Tribunal has been affirmed by the High Court, by observing that the evidence was clearly indicative of the fact that the Maruti car was being driven in a rash and negligent manner, which was the cause for accident of this nature and resulting in death of one of the passengers in the Maruti car. The Maruti car was driven by none other than PW 2 Manjeet Singh. In his evidence, he has admitted that the subject truck was running ahead of the Maruti car for quite some time about one kilometre and at the time of accident, the distance between the truck and Maruti car was only 10-15 ft. He has also admitted that the law mandates maintaining sufficient distance between two vehicles running in the same direction. It is also not in dispute that the road on which the two vehicles were moving was only about 14 ft wide. It is unfathomable that on such a narrow road, the subject truck would move at a high speed as alleged. In any case, the Maruti car which was following the truck was expected to maintain a safe distance, as envisaged in Regulation 23 of the Rules of the Road Regulations, 1989, which reads thus:

“23. Distance from vehicles in front.—The driver of



a motor vehicle moving behind another vehicle shall keep at a sufficient distance from that other vehicle to avoid collision if the vehicle in front should suddenly slow down or stop.”

The expression “sufficient distance” has not been defined in the Regulations or elsewhere. The thumb rule of sufficient distance is at least a safe distance of two to three seconds gap in ideal conditions to avert collision and to allow the following driver time to respond. The distance of 10-15 ft between the truck and Maruti car was certainly not a safe distance for which the driver of the Maruti car must take the blame. It must necessarily follow that the finding on the issue under consideration ought to be against the claimants.”

(emphasis added)

- (ii) ***DTC v. Harbans Kaur*** 1982 SCC OnLine Del 268 and ***Delhi Transport Corporation v. Kumari Lalita*** AIR 1982 Del 558, which she relied upon to submit that it is a matter of common knowledge that public men are generally reluctant to involve themselves in police investigations; therefore, it was not unnatural that *Mahender Kumar* did not report to the police at that stage but later, on the initiative taken by the father of the deceased, decided to help.
- (iii) ***National Insurance Company Ltd. v Kapil Bansal*** 2016:DHC:2139, which she relied on to state that this was also a case where diary entry was made and the same did not result in an FIR.
- (iv) Similar was the case in ***Parameswari v Amir Chand*** (2011) 11



SCC 635, *New India Assurance Company Ltd. v Kaushalya Devi*
2016 ACJ 70 ALL and *Brestu Ram v. Anant Ram* 1990 ACJ 333
HP.

23. Counsel for claimants states that the police did not file any records indicating a detached stepney at the spot of accident.

Rejoinder submissions on behalf of appellant

24. In the rejoinder, *Ms. Prerna Mehta*, counsel for appellant/Insurance Company relied upon *Oriental Insurance Co. Ltd. v. Meena Variyal* (2007) 5 SCC 428 in *paragraphs 10-11, 24-25 and 27-29*, on the issue that the Tribunal must approach a claim for compensation on proof of negligence and should not jettison all principles of law relating to a claim for compensation which is still based on tortious liability.

25. She further relied upon *Surender Kumar Arora & Anr. V Dr. Manoj Bisla & Ors.* 2010:DHC:3095 in *paragraphs 4-10*.

Analysis

26. The MACT, while determining the issue of negligence, relied on the testimony of **PW2**, father of the deceased and that of **PW1**, *Mahender Kumar*.

27. **PW1**, *Mahender Kumar*, stated that on 4th June 2010, he was going towards *Shani temple* and had started from there at about 8:00 p.m. When he reached *Y-point, Hodal* at about 12:50 a.m., post-midnight, he went to relieve himself at the corner of the road. While returning to his motorcycle, he saw a *Maruti Alto* car coming from behind at a very high speed. At the



same time, one car was ahead of the offending vehicle, and a truck was also ahead of that car. The driver of the *Maruti Alto* overtook the said car; however, upon noticing a bus approaching from the opposite direction, he swerved his vehicle, lost control, and struck the right side of the truck. The truck driver fled from the spot. The *Maruti Alto* was severely damaged, and all four occupants sustained injuries.

28. **PW1** deposed that he helped to arrange another vehicle, and the driver told his name as *Rohit Arora*. He further deposed that *Rohit Arora* told him that he would get Akash Srivastava admitted to a nearby hospital and would also seek First Aid for himself and the other occupants. **PW1** stated that he proceeded to Shani Mandir on the *bona fide* belief that injured persons would become okay with timely medical aid.

29. On 20th February 2011, while reading the newspaper *Hari Bhumi*, he came across a notice regarding the said accident, where the phone number of the father of the deceased had been mentioned. Since he had witnessed the accident, he informed the father of the deceased and subsequently gave his statement at the concerned police station.

30. In the cross-examination, **PW1** stood by his testimony and, in fact, mentioned that the divider was only half an inch high and the *Alto* car had first run over the divider while attempting to overtake the car ahead and then collided with the truck. He stated that the incident happened hardly 2 minutes and the vehicles were at approximately 80 km per hour speed. He further stated that the offending car stopped at a distance of about 25-30 metres from him and was approximately 10-15 feet behind the truck at the



time of impact. He remained at the spot for about ten minutes. He denied the suggestion that the accident occurred due to the stepney tyre of the truck in front falling off and hitting the glass, as alleged by *Rohit Arora*.

31. In contrast, the testimony of *Rohit Arora*, **RW1**, will need to be considered. He stated that when they were driving in the *Alto*, suddenly the stepney of the trawler-truck, which was ahead of the offending vehicle, became detached, struck the bonnet and front windshield of the car, and resulted in injuries to the deceased.

32. In his cross examination, **RW1** admitted that he does not have any document/proof to corroborate the fact that he had sustained injuries in the above accident. The Court has perused the photographs of the damaged car exhibited as **Ex.PW2/1**. A few of them are reproduced as under:





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33. By no means can it be inferred that such damage would have been caused by the stepney of a truck falling on the car, particularly considering the extent of damage, the massive bending of the steel of the car as well as the impact seems to be on the left corner, which is consistent with the testimony of **PW1**.

34. A complaint had been filed, which was registered on 7th June 2010, at the behest of *Anil Kumar Srivastava*, father of the deceased, and had been registered as **DD No.122/CC**.

35. He further filed a complaint on 27th August 2010 before the SHO,



Police Station Hodal, District Palwal, Haryana, stating that no FIR had been lodged in the case.

36. The testimony of *Rohit Arora*, therefore, does not seem credible from any stretch of evaluation. Moreover, there is no evidence on record from the driver of the offending vehicle, *Rohit Arora*, to show that there was any sudden braking on the part of the truck in front. Thus, the role of the truck ahead is clearly excluded. In any event, relying upon the decision in *Nishan Singh (supra)* it can be presumed that there is a legal presumption under *Regulation 23 of the Rules of the Road Regulations* that the driver of a motor vehicle moving behind another vehicle must keep a sufficient distance so as to avoid collision if the vehicle in front suddenly slows down or stops. The attempt by *Rohit Arora* to overtake the vehicle ahead at such a high speed, particularly in the presence of possible oncoming traffic and a thin divider of half an inch, which, as per **PW1**, he attempted to breach, was a careless and negligent act which clearly resulted in the accident.

37. The fact that there is no FIR registered, the reliance of the *Ms. Aruna Mehta*, counsel for respondent, on *Kapil Bansal (supra)*, *Parmeshwari Devi (supra)*, *Kaushalya Devi (supra)* and *Brestu Ram (supra)* may be referred to.

38. In *Parmeshwari Devi (supra)*, the Supreme Court set aside the High Court's view that since nobody had come from the police station to prove the complaint, which had been registered, the issue of negligence could not be proved. The Supreme Court stated “*the official procedure in matters of proceeding with the complaint is not within the control of appellant, who is*



an ordinary village woman”... “the general apathy of the administration in dealing with complaints lodged by ordinary citizens is far too well known to be looked by the High Court”. In this regard, the Supreme Court observed that perception of the High Court in disbelieving the complaint betrayed a lack of sensitized approach to the plight of a victim in a motor accident claim.

39. In *Harbans Kaur (supra)*, statement of the eyewitness had not been recorded by the police, and there was no explanation given by the witness as to how the witness was contacted later to depose about the accident. It was held that it is common knowledge that public men do not want to involve themselves in any investigation, and appellant/insurance company could have clarified from the eyewitness in the cross-examination, whether he was present in the site or how did he appear, but no attempt was made.

40. In *Kapil Bansal (supra)*, the local police had recorded a diary entry and there was no FIR. However, this Court while assessing the issue of negligence, rejected the plea that negligence had not been proved, considering that one of the witnesses had confirmed the necessary facts concerning the sequence of events leading to the accident.

41. In *Kaushalya Devi (supra)*, Division Bench of the High Court of Allahabad, noting that no FIR had been lodged, held that the absence of an FIR is not material if the involvement of the vehicle is established by evidence.

42. In *Brestu Ram (supra)*, the decision of a Single Judge of the High Court of Himachal Pradesh at Shimla, dealt with an issue where an accident



was not reported at the police station, which was situated at some distance from the place of accident, since there were serious injuries sustained. However, there was enough evidence to prove the factum of the accident. After analyzing the relevant law in this regard, the Court concluded that there was no evidence to the contrary and there were substantial reasons for late filing of the claim petition.

43. The reliance placed by the counsel for the appellant on the decision in *Meena Variyal (supra)* does not assist the appellant for the reason that the case before us is not a case where the Tribunal ignored basic principles of law while determining the claim for compensation. The relevant paragraphs of *Meena Variyal (supra)* relied upon by appellant largely deal with the procedure to be adopted by the Tribunal in determining compensation on observation of the Supreme Court that claimants are obliged to prove the negligence of the driver and that the principles of general law in this regard have not been jettisoned by the Motor Vehicles Act. There can be no cavil on this issue, it is a well settled principle.

44. However, this is not a case where the claimant has failed to prove the *factum* of the accident, the circumstances in which it occurred, and the negligence of the driver of the offending vehicle. In fact, *Rohit Arora, RW1*, admitted the occurrence of the accident. However, the explanation given by him for the injuries caused, namely that the stepney of the truck ahead fell on the car, as noted above, lacks any credibility and cannot be accepted.

45. Accordingly, these grounds of appeal are untenable and the appeal is dismissed.



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46. Pending applications, if any, are rendered infructuous.
47. Judgment be uploaded on the website of this Court.

**ANISH DAYAL
(JUDGE)**

MARCH 10, 2026/mk/bp