



2026:DHC:2140



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of decision: 13<sup>th</sup> March 2026***+ **MAC.APP. 817/2017**

MEENA DEVI GOSWAMI &amp; ORS .....Appellant

Through: Mr. Anshuman Bal, Adv.

versus

RELIANCE GEN INS CO LTD &amp; ANR .....Respondents

Through: Mr. A.K. Soni, Adv. (through VC)

**CORAM:****HON'BLE MR. JUSTICE ANISH DAYAL****JUDGMENT****ANISH DAYAL, J (ORAL)**

1. This appeal has been filed by the claimant, assailing award dated 31<sup>st</sup> July 2017 (hereinafter, '*impugned award*') passed by the Motor Accidents Claims Tribunal [*MACT*], Karkardooma Courts, which dismissed the claim petition filed by legal representatives [*LRs*] of *Late Bhudev Prasad* ('*deceased*') under Section 166 of Motor Vehicles Act, 1988 ('*MV Act*') seeking compensation of *Rs.2,00,00,000/-*. *MACT* held that the issue of negligence could not be proven against the driver of offending vehicle and therefore, granted compensation of *Rs.50,000/-* for no fault liability under Section 140 of *MV Act*.

2. The accident occurred on 16<sup>th</sup> February 2015 at about 8:15 p.m., when the deceased was travelling on a motorcycle from the side of *Tronica City* towards his house in *Bhajan pura, Delhi*. When he reached near *Sonia Vihar*



2026:DHC:2140



in front of *K.K. Transport*, the deceased collided with a Tempo bearing no. DL-1LE-5831 parked in the middle of the road without any back light or indication, as alleged by the claimants, resulting in death of deceased. FIR 91/2015 was registered under Sections 279/304A of Indian Penal Code, 1860 (*IPC*) at P.S. Sonia Vihar, Delhi.

3. *Mr. Anshuman Bal*, counsel for claimant, has placed reliance upon the testimony of *Mobin Khan* (**PW2**), who was stated to be an independent eyewitness. **PW2** stated that the deceased was ahead of him on the motorcycle, and a Tempo (*alleged offending vehicle*) was parked in the middle of the road without any back light or indication in complete darkness, as a result of which the motorcyclist/deceased met with the accident, fell on the road and died. The police came at the spot and made inquiries of the accident, and his statement was recorded. On this basis, it has been claimed that the testimony of an independent eyewitness ought to have some merit and, at best, an award for contributory negligence ought to have been made rather than dismissing the claim petition itself and awarding compensation for no fault liability.

4. Reliance has been placed on the decision of Supreme Court in *Jumani Begam v. Ram Narayan* (2020) 5 SCC 807, which was a case involving a rear end collision. The Supreme Court differed with the conclusion arrived at by the High Court that there was contributory negligence and concluded that substantive evidence of the eyewitness before the MACT could not have been dismissed and contributory negligence should not have been awarded by the MACT.

5. This Court has perused the relevant documents. In the cross-examination, **PW2** states that he was driving at a speed of 35-40 kmph and





2026:DHC:2140



7. It is quite clear from the Site Plan that there were red lights in that area where the collision occurred at *point number no. A*. Moreover, it is also obvious that the Tempo was already parked on the left side of the road and there was enough space on the carriageway on the other side, where the oncoming Tempo must have been moving. There was no reason for the deceased to not have noticed the Tempo parked on the left side of the road, since there seemed to be enough ambient light there, along with its own motorcycle headlights. It does show that the deceased was possibly negligent in driving at a speed where he could not control his movements to negotiate with the traffic on the road.

8. Considering that the police arrived at the site immediately thereafter, within 10-15 minutes and the site plan was produced thereafter, the site plan itself cannot be questioned and has not been questioned.

9. Moreover, the driver of Tempo gave his testimony as **R1W1** and stated that he had not parked the Tempo in the middle of the road without any back light and indication and was moving on the road in a slow speed. When the driver heard the sound of something crashing in the back portion of his vehicle, he got down to see what had happened behind. In his cross-examination, only a suggestion was made that the vehicle was parked in the middle of the road, and the accident was caused due to his negligence. No other substantive cross-examination was made of the driver by the claimants.

10. Nothing further can be elicited from the testimonies to substantiate the contention of claimants that there was negligence on part of driver of Tempo in parking his Tempo without any indicators or otherwise, that there could have been contributory negligence.



2026:DHC:2140



11. The Court has also perused the impugned order of the MACT, in which *paragraph 7.1* determines the issue of negligence. Notably, the MACT records that a final report has been filed under Section 173 of Code of Criminal Procedure, 1973 (*‘CrPC’*). The final report also suggested that the deceased was driving the motorcycle at the time of accident at a high speed.

12. Therefore, MACT has correctly noted that mere parking on left side of the road does not amount to a rashness and negligence on the part of driver, in the totality of the facts and circumstances. The issue of presence of the red light and headlights of the motorcycle have also been noted by the MACT.

13. At this stage, *Mr. Bal*, counsel for the appellant, made an oral submission that, in the alternative, the present claim petition may be treated as one filed under Section 163A of the MV Act, and the appellant may be granted compensation on the basis of no fault liability under the said provision.

14. However, *Mr. Soni*, counsel appearing for the respondent, opposes the same and contends that the statutory scheme of the Act clearly indicates that a claimant cannot pursue a claim together under section 140 and section 163A. He submits that compensation can either be sought under section 140 of the Act, which provides for compensation on the principle of no fault liability, or under Section 163A, which provides for compensation on a structured formula basis.

15. Considering that the claimant has already received compensation under section 140 of the MV Act, the contention of *Mr. Bal* to treat the claim petition as one filed under Section 163A of the MV Act ought to be rejected.

16. The Court concurs with the contention of *Mr. Soni*.

17. The Supreme Court in *Deepal Girishbhai Soni v. United India*



*Insurance Co. Ltd.* (2004) 5 SCC 385 has explained the nature and scope of Section 140 and 163A of the MV Act. The Supreme Court elucidated that Section 140 of the Act provides for interim compensation. However, by introducing Section 163A, Parliament intended to create a mechanism for awarding a predetermined amount of compensation without requiring a prolonged trial or proof of negligence in causing the accident. The legislative intent behind the amendment was to provide a speedy and efficacious remedy to heirs of the deceased or the victim himself, which was not available under Section 166 of the Act.

18. The Supreme Court further clarified that the effect of Section 140 and 163A does not provide for similar scheme.

19. In *paragraph 51 of Deepal Girishbhai Soni (supra)*, the Court observed that Section 163A clearly indicates that the rights and obligations of the parties are intended to be determined finally under the said provision. Under Section 163A of the MV Act, compensation is awarded on the basis of the structured formula provided in the Second Schedule.

20. Section 140 of the Act provides for interim compensation on the principle of no fault liability and permits adjustment. Section 163A on the other hand does not provide for any adjustments, and final compensation is awarded under the same.

21. As per Section 163B of the MV Act, a claim can be filed in either Section 140 or Section 163A. Section 163B is extracted as under for ease of reference:

*“163B-Where a person is entitled to claim compensation under section 140 and section 163A, he shall file the claim under either of the said sections and not under both.”*

(emphasis added)



22. Legislative intent behind the said provision is clear that the claimant cannot simultaneously invoke the benefit of both provisions. The same was also observed by the Supreme Court in the judgment of **Deepal Girishbhai Soni** (*supra*) in *paragraph 52*, which is extracted as under:

*“52. It may be true that Section 163-B provides for an option to a claimant to either go for a claim under Section 140 or Section 163-A of the Act, as the case may be, but the same was inserted ex abundanti cautela so as to remove any misconception in the minds of the parties to the lis having regard to the fact that both relate to the claim on the basis of no-fault liability. Having regard to the fact that Section 166 of the Act provides for a complete machinery for laying a claim on fault liability, the question of giving an option to the claimant to pursue their claims both under Section 163-A and Section 166 does not arise. If the submission of the learned counsel is accepted the same would lead to an incongruity”*

(emphasis added)

23. Further, in *paragraph 56* of **Deepal Girishbhai Soni** (*supra*), the Supreme Court held that purposive interpretation needs to be given to the Act.

*“56. It is now well settled that for the purpose of interpretation of statute, same is to be read in its entirety. The purport and object of the Act must be given its full effect. The object underlying the statute is required to be given effect to by applying the principles of purposive construction.”*

(emphasis added)

24. In *paragraph 57* of the said judgment, the Supreme Court concluded that compensation awarded under Section 163A and Section 166 is final in nature and provide for independent statutory mechanism for determining compensation.



2026:DHC:2140



25. In the present case, the claimant/appellant filed a claim petition before MACT under Sections 166 and 140 of the MV Act. Therefore, at this stage, the appellant cannot contend that the petition be treated as one filed under Section 163A, as he has already elected and exhausted his remedy by filing a claim under Sections 166 and 140.

26. Accordingly, the submission of *Mr. Bal*, counsel for claimant, that the present claim petition be treated as one filed under Section 163A of the MV Act is unwarranted.

27. In view of the facts and circumstances, as stated above, the appeal stands dismissed.

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

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

**(ANISH DAYAL)**  
**JUDGE**

**MARCH 13, 2026/ak/bp**