



2026:DHC:7912



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

Reserved on: 31st July 2026.

Pronounced on: 16th September 2026.

Uploaded on: 17th September 2026.

CNR No. DLHC010074882019

+ **MAC.APP. 110/2019**

SWATI @ SUBHARTI

.....Appellant

Through: Mr. Brahmanand Gupta, Adv.

versus

RAKESH KUMAR & ORS (ORIENTAL INSURANCE CO LTD)

.....Respondents

Through: Mr. Pradeep Gaur, Mr. Amit Gaur
& Ms. Sweta Sinha, Advs. for R-3.

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

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ANISH DAYAL, J.

1. This appeal has been filed by appellant/claimant assailing impugned judgment and award dated 04th August 2018, passed by Motor Accident Claims Tribunal (North), Rohini Courts, Delhi [hereinafter, '*MACT/Tribunal*'], in *MACT No. 5521/2016*, whereby the claim petition filed by appellant/claimant was dismissed, on account of being grossly delayed [hereinafter, '*impugned award*']. The Tribunal observed that the claim had been filed *17 years* after the accident had allegedly taken place, and was, therefore, a "*dead claim*".

The Incident

2. The accident in question occurred on 04th May 1997, at about 12.30 P.M., when appellant/claimant, who is stated to have been *5-years-*



old at the time, was going to the park by crossing the road. Upon reaching the middle of the road, she was struck by the offending vehicle bearing registration no. *HR-46-4354* [hereinafter, '**offending vehicle**'], which was allegedly being driven by the driver [*respondent no.1 herein*] at high speed, and in a rash and negligent manner.

3. Due to the forceful impact, appellant/claimant sustained grievous injuries and was taken to *Deen Dayal Hospital, Delhi* [**DDU hospital**]. The offending vehicle was found to be owned by respondent no. 2, and insured with respondent no. 3.

4. The claim petition was instituted on 19th February 2014, i.e. *17 years* after the accident, whereby appellant/claimant claimed *Rs. 20,00,000/-* as compensation, along with interest at the rate of 18% per annum, as also *Rs. 25,000/-* as an interim award.

Proceedings before the MACT

5. Respondent nos. 1-2 filed their joint written statements, wherein they denied that the accident was caused due to the negligent driving of respondent no. 1 or by the alleged offending vehicle.

6. The Insurance Company did not file a written statement and, therefore, its opportunity to file a written statement was finally closed. Thereafter, an application was filed by the Insurance Company seeking permission to place the written statement on record, but the said application was also dismissed.

7. In order to prove her claim, appellant/claimant examined herself as **PW-1**, *Dr. Narendra Kumar Varma* as **PW-2**, and *Mr. Basant* as **PW-**



3 [eyewitness]. Respondent no. 2, on the other hand, examined himself as **R2W1** and *Mr. Harnaam Arora* as **R2W2**.

8. While dealing with *Issue No.1*, as to whether appellant/claimant [*petitioner therein*] was entitled to compensation, the MACT deemed it fit, to first asses whether the claim could even be considered a ‘live claim’, if it was still ‘surviving’ or whether it was a ‘dead claim’.

Observations and Discussion by the MACT

9. The MACT observed that the claim had been filed on 19th February 2014, i.e. 17 years after the alleged accident. The appellant/claimant, at the time of filing the claim, had been about 20-22 years of age. It was stated that the accident was witnessed by *Mr. Basant/PW-3*, who had taken the appellant/claimant [*injured*] to the hospital.

10. It was further stated that appellant/claimant received grievous injuries as a result of the said accident, including amputation of four fingers of her right leg and three fingers of her left leg. She also stated that she could not attend school for 1 ½ years.

11. The MACT noted that there was no explanation as to how she, as a minor, came to remember and relate these facts, especially when there was no statement to the effect that she had gotten to know about the same from either of her parents.

12. Respondent nos. 1 and 2 claimed that the offending vehicle was duly insured. The MACT observed that appellant/claimant was not aware of anything except the number of the offending vehicle and the



fact that the accident had occurred. Further, she did not have any documents to verify or prove any fact pleaded by her, including the claim that she had spent *Rs. 3,00,000/-* on her treatment.

13. The MACT noted that *Mr. Basant/PW-3*, who was stated to be the eyewitness, was also unable to recollect the facts and number of the offending vehicle. Further, during his cross-examination, he stated that he was busy attending his customers and had not seen the tempo hitting the appellant/claimant.

14. While examining the evidence of respondent no.2 [*owner*], the MACT observed that *Mr. Harnam Arora/R2W2*, who was the Administrative Officer with respondent no.3/Insurance Company, stated that he did not have the summoned record relating to the Insurance Policy, since it pertained to the year 1996, and said records had been destroyed at the time of shifting offices.

15. The MACT, therefore, concluded its findings on the facts of the matter by noting that appellant/claimant did not remember anything except the number of the offending vehicle, respondent no.1 denied the accident, respondent no. 2 claimed that the vehicle was insured but did not have the policy to prove the same, and respondent no. 3 was unable to produce the *19-year-old* record.

16. The law traversed by the MACT is summarised as under:

- i. The Supreme Court in *M/s Purohit & Co. v. Khatoonbee*, (2017) 4 SCC 783, was dealing with a case wherein the accident occurred in 1977 and the claim petition was filed after *28 years*, in 2005.



The claimants pleaded that they were poor and did not have any knowledge of the law. However, the Supreme Court rejected this contention of the claimants and held that the claim was not a '*surviving claim*'.

- ii. In ***Corporation Bank v. Navin J. Shah***, (2000) 2 SCC 628, a claim for compensation had been filed under the Consumer Protection Act, 1986, wherein no limitation period has been prescribed. The Supreme Court, however, held that the transactions took place about *10 years* ago, and even if there was no period of limitation, it did not mean that the claim could be considered after an unreasonably long period of time.
- iii. In ***Haryana State Coop. Land Development Bank v. Neelam***, (2005) 5 SCC 91, a claim was brought under the Industrial Disputes Act, 1947, after a period of *7 years*, on the ground that no limitation period was provided under the said act. The Supreme Court, yet again, held that the claim was a '*non-surviving claim*'. The Court further noted that even though the law did not prescribe a time limit for the appropriate government to exercise its power under the act, said powers could not be exercised at any point of time to revive matters which had since been settled. Considering that the claim had been raised after *7 years*, it was held to not be maintainable.

Analysis and findings

17. Before assessing the aforesaid decisions and the law which might be applicable to the case at hand, it is pertinent to note that



appellant/claimant has simply stated in her evidence by way of affidavit that she was about *5-years-old* at the time of accident, and was aged about *20 years* at the time of making said deposition. She further stated that she remembered that the offending vehicle was *HR-46-4354* and that she had been taken to the *Deen Dayal Upadhyay Hospital, Delhi*, where the doctors conducted her MLC and operated upon her, whereby four fingers of her right leg and three fingers of her left leg were amputated. She also stated that she suffered injuries on her back and remained under treatment for more than *6 months*.

18. The appellant/claimant further deposed that she had spent an amount of *Rs. 3,00,000/-* till date on her treatment and that she was not able to attend school for one and a half years. She further stated that her father was doing a labour job and had to take leave from his work to look after appellant/claimant, thereby suffering *loss of income*.

19. During her cross-examination, she admitted that she had been a little girl at the time of the accident, and therefore, did not remember much about the accident. She denied the suggestion that her parents had told her about the accident and that she remembered the facts on that basis, and instead stated that she had noticed the number of the offending vehicle on her own. Further, she did not remember if the police had recorded her statement regarding the accident. However, she did state that her parents had been questioned by the police. She also admitted that she had no written evidence to verify her age her except ration card and Aadhar card. Appellant/claimant also went on to deny the other suggestions which she was confronted with.



20. The alleged eyewitness, *Sh. Basant/PW-3*, stated during his examination-in-chief that, about *19 years* back, when he was present at his shop situated at *Balwan Nagar, Saraswati Vihar, Delhi*, he saw a girl named *Swati*, who was already known to him (being his neighbour), crossing the road. A *Tata 407* came from the police line side and as *Swati* reached the middle of the road, the said *Tata 407* hit her. Resultantly, she fell down on the road and her legs were crushed under that vehicle. He, thereafter, took her to the *Deen Dayal Upadhyay Hospital* and his statement was recorded by the Police.

21. Further, during his cross-examination he stated that he was interrogated by the police. He did not know the house number of appellant/claimant but knew that she was residing in his neighbourhood. He also stated that he had not identified the driver in any Test Identification Parade [*TIP*] and admitted that he was busy attending his customers and had not seen the tempo hitting *Swati*. He volunteered that he had heard noise after which he reached there. He admitted that he had not called the PCR after the accident, and had initially taken injured [*appellant/claimant*] to a nursing home and, thereafter, to the DDU hospital.

22. **R2W1**, owner of the vehicle, was also cross-examined, wherein he stated that he was aware that his driver had been arrested in the case and that it was correct that the police had enquired from him regarding the driver. He further stated that his statement had never been recorded by the police. He had gone to the office of the Insurance Company and had also informed them about the accident. He volunteered that he had demanded the insurance policy on basis of the cover note, but the same



was not given to him.

23. During his examination, **R2W2**, the Administrative Officer from Insurance Company, stated that the summoned record relating to cover note of the Insurance policy was not available since the same was destroyed, at the time of shifting.

24. Therefore, even if the aspect of limitation is kept aside for a moment, it would be difficult to conclude, on the basis of the aforesaid testimonies, that the accident occurred due to negligence on part of the offending vehicle.

25. It is also pertinent to note that neither of the parents of appellant/claimant has been examined as a witness, nor have they deposed regarding any aspect of the accident, the resulting injury, the treatment undergone by appellant/claimant, or the loss of schooling. The appellant/claimant herself states that she was *five years* of age at the time of the accident. In these circumstances, it would be difficult to assume that she did not have the benefit of her parents' presence and assistance during the course of her treatment and thereafter, during the course of police investigation.

26. It is evident that no steps were taken by parents of appellant/claimant during all these years, either to stake a claim for compensation on her behalf or to follow up on the police investigation. This is where the family draws a complete blank. Until appellant/claimant attained the age of minority, her parents were her natural guardians and, therefore, if any right to file a claim had accrued in her favour, it would have ordinarily been pursued by her through her



parents as her natural guardians. The Court takes note of the settled position of law in this regard which provides that any suit by a minor shall be instituted through a next friend, as has been provided under Order XXXII of the Code of Civil Procedure, 1908 [**'CPC'**].

27. Coming now to the aspect of limitation, the claim petition was instituted by the appellant/claimant on 19th February 2014, pursuant to the Motor Vehicles (Amendment) Act, 1994. Prior to the said amendment, Section 166(3) of the Motor Vehicles Act [**'MV Act'**], 1988, prescribed a period of six months for filing an application for compensation, with a power vested in the Claims Tribunal to entertain an application beyond the said period in certain circumstances. However, Section 166(3) was deleted by the said amendment with effect from [**'w.e.f.'**] 14th November 1994. Therefore, as on the date of institution of the claim petition, i.e. 19th February 2014, no specific period of limitation was prescribed under Section 166 of the MV Act, 1988.

28. This position was once again altered by the Motor Vehicles (Amendment) Act, 2019, which reintroduced a period of limitation by inserting sub-section (3) in Section 166, wherein a period of six months has been prescribed for filing an application for compensation w.e.f. 1st April 2022. The constitutional validity of the said provision has now been challenged before the Supreme Court.

29. In this regard, it is important to take judicial note of order dated 04th November 2025, passed by the Supreme Court in ***ICICI Lombard General Insurance Company Ltd. v. Ayiti Navaneetha & Ors***, SLP. (C) 8412-8413 of 2023, wherein the Court has held that, during the pendency



of aforesaid appeal regarding the issue of limitation, which has been once again introduced by the 2019 amendment, the Tribunals and High Courts, shall not dismiss claim petitions on the ground that the petitions are barred by limitation.

30. However, having considered the facts and circumstances of the present case, the question which requires consideration herein, is not of limitation, but whether a claim filed after 17 years, can be considered a '*surviving claim*'.

31. For the aforesaid assessment, it would be apposite to examine the decisions rendered by the Supreme Court and this Court on the issue, some of which are discussed hereinbelow:

1.1 In ***Purohit*** (*supra*), the Supreme Court was dealing with a case involving the death of daughter of the claimants, where the claim had been filed after a period of 28 years. The Tribunal entertained the claim. The High Court also upheld the justiciability of the claim, on the ground, that no period of limitation had been provided under the MV Act, 1988. While challenging the impugned judgement, in the first instance, a reference had been made to Section 110A of the MV Act, 1939, to demonstrate that a period of limitation of 6 months (from the date of the accident) had been provided for at the time. The Court then noted that in the successor legislation, i.e. the MV Act, 1988, as originally enacted, Section 166(3) also provided a limitation period of 6 months. However, the same was done away with, w.e.f. 14th November 1994, by the 1994 amendment. The Supreme Court, thereafter, considered whether the



omission of Section 166(3) would have the effect of allowing a claimant to file the claim petition even after a decade. A submission was made that the claim ought to be made within a *reasonable* time, and after the expiry of such time, the claim would be *stale*. In such situations, the claim would have to be considered as a *dead claim*. It was further submitted that the claim ought to be considered as *dead*, in situations where the evidence would not be available, for the mere reason of lapse of time.

1.2 The Supreme Court placed reliance upon the decision in ***Corporation Bank*** (*supra*) and ***Haryana State Coop. Land Development Bank*** (*Supra*). These judgments pertained to claims under the Consumer Protection Act, 1986, and the Industrial Disputes Act, 1947, respectively, both of which do not provide for periods of limitation and, therefore, were relied upon. The Supreme Court, considered these judgements and held as under:

“15. We are satisfied, that the submission advanced at the hands of the learned counsel for the appellant merits acceptance. The judgments on which the High Court had relied, and on which the respondents have emphasised, in our considered view, are not an impediment, to the acceptance of the submission canvassed on behalf of the appellant. We say so, because in Dhannalal case [Dhannalal v. D.P. Vijayvargiya, (1996) 4 SCC 652 : 1996 SCC (Cri) 816] the question of inordinate delay in approaching the Motor Accidents Claims Tribunal, was not considered. In the second judgment in C. Padma case [New India Assurance Co. Ltd. v. C. Padma, (2003) 7 SCC 713 : 2003 SCC (Cri) 1709] , it was considered. And in C. Padma case [New India Assurance Co. Ltd. v. C. Padma, (2003) 7 SCC 713 : 2003 SCC (Cri) 1709] ,



the first conclusion drawn in SCC p. 718, para 12 was “... if otherwise the claim is found genuine...”. We are of the considered view, that a claim raised before the Motor Accidents Claims Tribunal, can be considered to be genuine, so long as it is a live and surviving claim. We are satisfied in accepting the declared position of law, expressed in the judgments relied upon by the learned counsel for the appellant. It is not as if, it can be open to all and sundry, to approach a Motor Accidents Claims Tribunal, to raise a claim for compensation, at any juncture, after the accident had taken place. The individual concerned, must approach the Tribunal within a reasonable time.

16. The question of reasonability would naturally depend on the facts and circumstances of each case. We are however, satisfied, that a delay of 28 years, even without reference to any other fact, cannot be considered as a prima facie reasonable period, for approaching the Motor Accidents Claims Tribunal. The only justification indicated by the respondents, for initiating proceedings after a lapse of 28 years, emerges from Para 4, contained in the application for condonation of delay, filed by the claimants, before the Tribunal. Para 4 aforementioned is extracted hereunder:

“4. That the petitioners are poor person and they have no knowledge about the Law. Also the respondent has not pay the single pie towards any compensation.”

17. Having given our thoughtful consideration to the justification expressed at the behest of the respondents, for approaching the Tribunal, after a period of 28 years, we are of the view, that the explanation tendered, cannot be accepted. Undoubtedly, the claim (pertaining to an accident which had occurred on 2-2-1977), in the facts and circumstances of the instant case, was stale, and ought to have been treated as a dead claim, at the point of time, when the respondents approached the Tribunal by filing a claim petition, on



23-2-2005.”

Therefore, the Supreme Court considered the “*question of reasonability*” in assessing whether the claim was a *dead and stale claim*. (emphasis added)

2.1 This Court in ***Suman v. Shyamveer Singh***, 2021 SCC OnLine Del 2848, was dealing with an accident which occurred in 1998, the claim for which was filed after a period 16 years. The Tribunal dismissed the claim on the ground of limitation. The High Court upheld the decision rendered by the Tribunal and placing reliance upon the decision in ***Purohit (supra)***, held that the period of sixteen and a half years could by no stretch of imagination be considered as a *reasonable* period of time. The Court also observed that the explanation as to what prevented the appellants from approaching the Tribunal within a *reasonable* time was neither given before the Tribunal nor before the High Court.

3.1 In ***Meena Singhal v. Chaman Lal***, 2026 SCC OnLine 1328, this Court dealt with a case wherein the accident had occurred in 1992, and the claim that had been filed after a lapse of more than 12 years. Neither was the delay explained nor was any application for condonation of delay filed. The MACT had held that the petition was not maintainable. This Court once again upheld the finding of the MACT and held as under:

“26. It is quite clear that not only was the claim petition filed with an unreasonable delay of 12 years, and though appellant chose to knock on doors of the Court, they were not inclined to pursue it. The Explanation given by appellants' counsel that delay



was on account of fact that appellant/wife of deceased was in complete shock and was managing two children, and, therefore, could not approach the Court for legal remedies, at first blush may invite empathy of this Court, but it cannot stretch to an extent where the Court does not take into account the complete lethargy repeatedly on part of appellant/claimant.

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28. In the present case, the claim is filed after 10 years of the amendment in 1994 and, therefore, it will have to be seen from prism of decision in Purohit & Co. v. Khatoonbee (supra) where the Court rejected admission of a claim which was made after 28 years. The issue is not whether it is 12 year delay in the present case or a 28 year delay Purohit & Co. v. Khatoonbee (supra), but whether filling of claim itself was unreasonably delayed. Though, the issue of unreasonableness was not expanded in Purohit & Co. v. Khatoonbee (supra), the Supreme Court clearly deemed it to depend on the facts and circumstances of case.

29. In this case, there is not only delay of 12 years in approaching the Courts, having suffered bar of limitation of six months from the date of accident, but also a consistent inability to pursue the case before the MACT and later before this Court. This, in opinion of this Court, brings it within realm of unreasonableness and, therefore, renders it as a “stale” claim.

30. It is not even a situation where a claimant approaches the Court having a co-injured/co-deceased's claim has been admitted and therefore approaches the Court to obtain the same benefit. This is a case where admittedly no other injured or family of deceased in the same accident ever filed a claim, for reasons best known to them, and only wife of deceased has chosen to suddenly present a claim after



12 years, and as mentioned earlier, chose not to press it time and again.”

(emphasis added)

32. Before proceeding further with the aforesaid assessment, another aspect which requires consideration by this Cour is the legal disability contemplated under Section 6 of the Limitation Act, 1963 [***Limitation Act***], which provides an exception for persons under a legal disability, and states that where a person who is otherwise entitled to institute a suit suffers from a disability, being a minor or insane, or an idiot, such person may institute the suit after the disability has ceased. However, Section 8 of the Limitation Act places a restriction on the benefit under Section 6 of the said act, by providing that the extension of the period of limitation under Section 6 shall not extend beyond three years from the cessation of the disability.

33. The Supreme Court has clarified that applications and petitions filed under the MV Act may be considered as suits for the purposes of Section 6 of the Limitation Act. Therefore, for better understanding of the scope and application section 6 in the context of the MV Act, certain decisions of the Supreme Court and various High Courts have been discussed hereinbelow:

- i) In ***New India Assurance Co. Ltd. v. Gopu***, 2025 SCC OnLine SC 908, the Supreme Court was faced with a claim petition filed under the MV Act, 1988, by the legal representatives of a woman, who was riding as a pillion rider on a motorcycle and had died subsequent to an accident. Her husband and two minor children sought compensation in this regard and were awarded *Rs.*



6,53,000/- vide an award passed in 2006. After 10 years, in 2016, an appeal was preferred by her children alone, and thereby, the compensation was enhanced by the High Court. The enhancement was challenged by way of a Special Leave Petition [**'SLP'**], wherein the Insurance Company raised an objection as to why no satisfactory explanation regarding the delay in filing the appeal had been furnished, considering that it had been filed 10 years after the Tribunal's award and 8 years after the children attained the age of majority. Discussing Section 6 of the Limitation Act and noting the judgement of the Kerela High Court in **Musthafali v. Subair**, 1991 SCC OnLine Ker 269, wherein the Kerela High Court held that proceedings under Section 110A of the MV Act [*as had been in operation at the time*] are in the nature of a suit under the Code of Civil Procedure, 1908 [**'CPC'**], the Supreme Court stated that the exemption by reason of legal disability applies only to the institution of an original proceeding/suit or application. The same shall not be applicable in case of an appeal, since an appeal is the continuation of a proceeding.

The Supreme Court further noted that father of the children had instituted proceedings before the MACT, for compensation in respect of both the minor children, who were being represented by their father as a natural guardian. However, their father consciously chose to neither file an appeal against the Tribunal's award nor file cross-objections in the Insurance Company's appeal for exoneration. The Supreme Court concluded by stating that intention of the legislature was clear in this regard, and it was not



for the Courts to extend the period of limitation on misplaced sympathies.

- ii) In ***Bangaru v. Theeran Chinnamalai Transport Corporation***, 1995 SCC OnLine Madras 247, a claim petition was filed by mother of minor children of the deceased, i.e. wife of the deceased. The claim petition was filed after a delay of 18 months, and was opposed by the Insurance Company on the ground that the reasons cited for said delay were not sufficient to for it to be condoned. The Madras High Court considered the submissions of the parties and noted that the claim petition, being filed after the period of limitation prescribed under Section 166(3) of the MV Act, 1988, was time-barred; however, to get over this hurdle of limitation, the appeal was filed through minors, in order to claim benefit under Section 6 of the Limitation Act. The Court, thereafter, observed that claims filed under the pretext of invoking Section 6 of the Limitation Act, after the lapse of several years, including a decade or two, may lead to situations where hardly any trace of documentary evidence, including records maintained by the police authorities, would be available. The Court further noted that this would also pave way for frivolous, vexatious and astronomical claims and would open a door for people to mercilessly challenge the adjudication, which has been done properly and effectively, on an application filed by guardians of such persons suffering disability or made by the major members themselves for and on behalf of them and those who were under some disability under Section 6 of the Limitation Act. For ready



reference, aforesaid observations of the Madras High Court have been extracted hereinbelow:

“23. The construction placed by us as above in a case of the nature under our consideration becomes necessary also to avoid serious anomalies involved in taking a contra view. Even as the matter stands courts can take judicial notice of the fact that in the last majority of cases even filed within time, it is found difficult to get a true and proper picture of the accident or the details thereof for effectively adjudicating the claims made before the Tribunals and if claims are permitted to be filed availing of provisions like section 6 of the Limitation Act, 1963, claims may be forthcoming after several years and at times after a decade or two and in such cases there will hardly be any trace of even documentary evidence available in the shape of records maintained by the police authorities or criminal court or authorities of the Motor Vehicles Department, leave alone the question of creditworthiness of oral evidence that may be forthcoming after such long time. It may also pave way for frivolous, vexatious and astronomical claims too apart from encouraging those who could avail of section 6 of the Limitation Act to merely and mercilessly challenge the adjudication properly and effectively made on an application filed by the guardian of such persons suffering disability or made by the major members themselves for and on behalf of them and those who were under some disability or others as visualised under section 6 of the Limitation Act, 1963. It will also be difficult for those who have to defend themselves or answer such postponed or delayed claims and place them at great disadvantage. A construction which would lead to such startling consequences of grave and serious nature which may inevitably lead to uncertainty and friction undermining the very system of providing for an expeditious and effective remedy presumably never intended also,



dissuade us from subscribing to the too wide proposition laid down in some of the decisions of the other learned Judges of various other High Courts. We make it clear and confine, at any rate, our decision to the category of cases before us, wherein the claim petition has been presented indisputably beyond the period of twelve months from the occurrence of the accident by a claimant who is also a major joining together with one or more minor claimants. Though the question raised before us in the form in which it has been argued does not appear to have been presented for consideration before the learned single Judge, we have considered the same having regard to the importance of the issue and the fact that it is a pure question of law. We make it clear that this decision will have no application to a case where all the claimants are minors. For all the reasons stated supra, we do not see any justification to interfere with the orders of the learned single Judge confirming the order of the learned District Judge, rejecting the claim petition as barred by limitation. Consequently, the appeal fails and shall stand dismissed, but in the circumstances of the case, there will be no order as to costs.”

(emphasis added)

- iii) In ***Bishan Das v Ramesh***, 1971 SCC OnLine Del 136, a decision rendered by a Single Judge of this Court, the issue related to the period of limitation applicable to a claim filed by two minor sons of the deceased. An application had been filed under Section 110-A of the MV Act, 1939, wherein a limitation period of 60 days had been provided. It was contended that Section 6 of the Limitation Act would apply to claims filed under the MV Act, by reason of Section 29 (2) of the Limitation Act. The Court held that normally by reason of Section 6, the two sons of deceased, being minors, were entitled to benefit of this provision. The argument that the



period of limitation could not be extended since the widow of deceased was alive and could have made the claim, did not merit acceptance. The Court relied upon Section 7 of the Limitation Act to hold that that where one of several persons jointly entitled to make an application is under a disability, and a valid discharge can be given without the concurrence of the person under such disability, the time would not run against all of them. The Court, therefore, held that while the widow was competent to file an application for compensation, she was not competent to give a valid discharge in respect of the claims of her two minor sons. Insofar as the claim of the widow was concerned, the Tribunal ought to have made an award at the time of passing the award. Since no amount had been awarded in respect of the minors, they could subsequently file their claims, as each of them had a separate cause of action. The mother was not in a position to give a valid discharge in respect of such claims.

Conclusion

34. The discussion in the foregoing paragraphs makes it clear that, in ordinary circumstances, a minor claiming compensation under the MV Act, would be entitled to invoke the benefit prescribed under Section 6 of the Limitation Act, subject to the restriction laid down under Section 8 of the said Act. Although these aspects have not been argued by counsel for appellant/claimant, it is the duty of this Court to consider the same in order to arrive at a *just and reasonable* conclusion.

35. However, in the facts and circumstances of the present case,



firstly, there exists a serious discrepancy regarding age of the appellant/claimant, **PW-1**, which has an impact in the consideration. Her Aadhar Card as well as the 10th grade mark sheet record her year of birth as 1994, with the 10th grade marksheet specifically recording her date of birth [**‘DOB’**] as 9th September 1994. Therefore, taking this into account, age of appellant/claimant on the date of the accident i.e. on 04th May 1997, would have been around *2 years and 7 months*. However, appellant/claimant has consistently stated that she was *five-years-old* at the time of the accident. This inconsistency has also been noted by the Tribunal in *paragraph 11* of the impugned award, wherein it observed that the age of the appellant/claimant was stated to be *20 years* at the time of filing of the claim petition; however, if she was *five years old* at the time of the accident, she ought to have been *22 years* of age at the time of filing the claim petition.

36. Therefore, even if the testimony of appellant/claimant, **PW-1**, is believed, and it is assumed that appellant/claimant was *5-years-old* in 1997, when the accident occurred, she would have attained the age of majority in 2010. If that be the case, the claim petition filed in 2014, would still be barred by limitation even if we consider that appellant/claimant was entitled to the benefit under Section 6 of the Limitation Act. This is because Section 8 of the said Act places a limitation on the benefit under Section 6 by providing that such benefit cannot have the effect of extending the period for instituting a suit beyond three years from the cessation of the disability.

37. However, if we were to grant the appellant/claimant benefit of her 10th grade mark sheet, she would have become a major in the year 2012



and, therefore, the claim being filed in 2014, would be well within the limitation period.

38. Nevertheless, even if the aforesaid is accepted, and it is accordingly assumed that the claim filed by appellant/claimant is well within the limitation period, the same would still not be sustainable in the opinion of this Court, considering the following points:

- i) **Firstly**, if appellant/claimant is considered to be *2 years and 7 months old* on the date of the accident, she cannot be expected to remember such specific facts, including the number of the offending vehicle;
- ii) **Secondly**, no reference has been made to her parents, either in the claim petition or otherwise. Therefore, in ordinary circumstances, her parents, being her natural guardians, ought to have been the persons through whom appellant/claimant filed her claim;
- iii) **Thirdly**, no proof was available regarding any Insurance Policy, since the relevant records had been destroyed, as per the testimony of *Mr. Harnam Arora/R2W2*;
- iv) **Fourthly**, **PW-3**, alleged eyewitness, was also unable to recollect the facts and number of the offending vehicle and specifically stated that he had been busy in attending his customers at the time of the accident and had not seen the tempo hitting appellant/claimant;
- v) **Fifthly**, respondent no. 1 denied the occurrence of the accident, while respondent no. 2 denied the existence of the insurance policy and respondent no. 3 was unable to produce the insurance policy.



- vi) **Sixthly**, as enunciated in **Purohit** (*supra*), the said period of 17 years is by no stretch of imagination a *reasonable* period of time.
- vii) **Seventhly**, as stated by Madras High Court in **Bangaru** (*supra*), allowing this would pave the way for dead/stale claims to be entertained. This runs the risk of no evidence and witnesses no longer being available, and in even where they are available, raises the question of whether any credence can be granted to their testimonies.

39. This petition having been filed under Section 166 of the MV Act, 1988, it was incumbent upon appellant/claimant to establish that her injuries were caused by the negligence of the offending vehicle. However, in these circumstances, there is no material on record, even on the touchstone of *preponderance of probabilities*, to establish that the injuries sustained by appellant/claimant were caused on account of the rash and negligent driving of the offending vehicle.

40. Therefore, even if the petition were to be considered as having been filed within limitation, and not being '*stale*', the claim would nevertheless not survive on merits.

41. Accordingly, in view of the above, the appeal stands dismissed.

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

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

(ANISH DAYAL)
JUDGE

SEPTEMBER 16, 2026/RK/ya