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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Date of decision: 20th March 2026*

+ MAC.APP. 281/2024, CM APPL. 32345/2024 CM APPL.
17971/2025

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+ MAC.APP. 283/2024, CM APPL. 32485/2024 CM APPL.
17593/2025 & CM APPL. 7652/2026

THE ORIENTAL INSURANCE CO LTDAppellant

Through: Mr. A.K. Soni, Advocate

versus

NARESH KUMAR & ORS.Respondents

Through: Mr. Pankaj Kumar Tiwari, Adv.

**CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL**

JUDGMENT

ANISH DAYAL, J (ORAL)

1. These appeals have been filed assailing the impugned award dated 08th January 2024 passed by the Motor Accident Claims Tribunal, District Shahdara, Karkardooma Courts, Delhi in MACT No.35/2014 (New MACT



2026:DHC:2876



No.972/2016) (*MACT/Tribunal*) and MACT No.34/2014 (New MACT No.971/2016), respectively.

The Incident

2. On 05.11.2013, the deceased, *late Priya*, was travelling as a pillion rider on a motorcycle and was proceeding towards *Village Nangal Kesari* from *West Vinod Nagar, Delhi*, along with her husband, *Naresh Kumar* (claimant herein in both the appeals). When they reached near *Chaprauli Expressway, Greater Noida*, the offending vehicle, a *TATA 909* bearing registration No. ***UP-86D-9531***, allegedly came from behind at high speed and hit the motorcycle.

3. Due to the forceful impact, both the riders fell onto the road and sustained injuries. Thereafter, the injured persons were immediately taken to *Kailash Hospital, Greater Noida*, for medical treatment. However, during the course of treatment, the deceased, *late Priya*, succumbed to the injuries sustained in the accident.

Impugned Award

4. The Tribunal framed the following issues in MACT No.34/2014:

“(1) Whether the deceased Smt. Priya suffered fatal injuries in the accident occurred on 05.11.2013 due to rash and negligent driving of vehicle no. UP-86D-9531 being driven by respondent no.1?

(2) Whether the petitioners are entitled for any compensation, if so, to what amount and from whom?



2026:DHC:2876



(3) Relief”

5. The Tribunal framed the following issues in MACT No.35/2014:

“(1) Whether the petitioner suffered injuries in the accident occurred on 05.11.2013 due to rash and negligent driving of vehicle no.UP-86D-9531 being driven by respondent no.1?

(2) Whether the petitioners are entitled for any compensation, if so, to what amount and from whom?

(3) Relief”

6. Petitioners examined four witnesses, i.e. **PW1**, *Naresh Kumar* (husband of the deceased and injured), **PW2**, *Dr. Brijesh Kumar Jain*, who proved the disability certificate of *Naresh Kumar*, **PW3**, *Sh. Rama Raman* from *Shri Ram General Insurance Company*, who proved employment, leave and salary records of the injured, and **PW4**, *Retired SI Dal Chand Tiwari*, who produced the case diary relating to the criminal case. On the respondents’ side, respondent No.2, *Bablu*, appeared as **R1W1**, but his evidence was closed as he did not present himself for cross-examination; respondent No.3, *Jitender Kumar*, examined himself as **R2W1**; and the insurance company examined *Ms. Pallavee Thakral* as **R3W1**.

7. After considering the evidence and submissions, the Tribunal decided the first issue in favour of the claimants and held that although there was some discrepancy in police records regarding the registration number of the offending vehicle, the material on record, including the testimony of **PW1**, the



2026:DHC:2876



investigation records, and admissions by the driver and owner, established that the accident involved vehicle No. **UP-86D-9531**. The Tribunal further concluded, on the basis of the evidence and standard of preponderance of probabilities, that the accident occurred due to the rash and negligent driving of respondent No.2, and accordingly decided the issue of negligence in favour of claimants and awarded a compensation of Rs.9,38,863/- to the injured, Naresh Kumar along with interest @ 8% per annum in MACT No.35/2014 and Rs.31,76,448/- along with interest @ 8% per annum in MACT No.35/2014.

Submission on behalf of Insurance Company

8. *Mr. A.K. Soni*, counsel for appellant, contends that the Tribunal has erred in holding that the accident occurred due to the rash and negligent driving of *TATA 909* bearing registration No. **UP-86D-9531** without any cogent and reliable evidence establishing the involvement of the said vehicle.

9. It is submitted that the Tribunal has wrongly placed reliance upon the testimonies of **PW1**, *Naresh Kumar*, and **PW4** as well as the criminal record, while ignoring the material contradictions and the evidence led by the appellant in rebuttal. He further submits that the **FIR dated 05th November 2013** lodged by *Bhupender Singh*, brother-in-law of Naresh Kumar, clearly records that the accident was caused by an unknown vehicle and it was only on 22nd December 2013, i.e. after about **47 days of the accident**, when an alleged informer informed the IO about the number of the offending vehicle. Moreover, in the statement recorded under Section 161 Cr.P.C., the



2026:DHC:2876



injured/Naresh Kumar, did not disclose the registration number of the alleged offending vehicle, whereas during cross-examination before the Tribunal, he deposed that he had noted the number of the vehicle at the time of the accident. When put to question as to why he did not disclose the number of the alleged offending vehicle earlier, he failed to explain.

10. *Mr. A.K. Soni* further submits that the police had initially seized vehicle bearing registration No. **UP-86D-9537**, and it was only later that the owner stated that the correct number was **UP-86D-9531**, therefore, it is contended that the respondents/claimants were not entitled to compensation against the appellant as the involvement of the insured vehicle itself has not been duly established.

Submissions on behalf of respondents

11. *Mr. Pankaj Kumar Tiwari*, counsel for respondents, canvassed arguments in support of award passed by the Tribunal. It was essentially contended that the accident stood fully proved, as the FIR was registered immediately after the accident and the death had occurred on the same day. The *post mortem* report and medical records also confirmed the occurrence of the accident. Moreover, a charge-sheet was filed against the driver, the vehicle was seized by the police, the driver was arrested, and the owner admitted the ownership of the offending vehicle.

12. It was further contended that the insurance company could not deny the accident only on the ground that the FIR did not mention the registration



2026:DHC:2876



number of the offending vehicle, since an FIR is usually lodged in emergency situations and is not an encyclopedia of facts.

13. Registration of the FIR stating that the accident was caused by an “*unknown vehicle*” is not fatal to the case, as the respondent-claimant was not in a position to communicate due to the injuries sustained in the accident. Moreover, the testimony of the eyewitness, **PW1**, *Naresh Kumar*, is reliable, considering that he was the husband of the deceased and had also sustained injuries in the same accident, as per the charge-sheet.

14. He submitted that Insurance Company’s contention that vehicle was falsely implicated, on the ground that the Investigating Officer (**‘IO’**) recorded a different vehicle number in the case diary (**‘CD’**), is not tenable. Moreover, the Tribunal had already observed that although a different vehicle number was recorded in the CD, the registration certificate and the insurance policy available on record pertain to the same vehicle identified by the victim, i.e., **UP-86D-9531**. Accordingly, the discrepancy in the CD appears to be merely a clerical error.

15. Moreover, income assessment by Tribunal was correct based on minimum wages, and future prospects have been correctly granted.

Analysis

16. It would be necessary to examine the sequence of events for a better appreciation of the submission to the parties. The accident took place on 5th November 2013 near *Greater Noida*, basis allegation that the offending vehicle *Tata 909*, bearing registration **UP-86D-9531**, had come from behind



2026:DHC:2876



and hit the motorcycle. Respondent, *Naresh Kumar*, husband of deceased, who was also injured in the accident, was working as a *Senior Executive in Marketing* with *M/s. Shri Ram General Insurance Company Limited*.

17. FIR was registered on 5th November 2013 basis statement of *Bhupender Singh*, brother-in-law of *Naresh Kumar*, stating that an unknown vehicle had caused the accident.

18. However, the surprising event occurred on 22nd December 2013, when after 47 days of the incident, the IO received information from “*some unnamed informer*” that a vehicle bearing registration no. ***UP-86D-9531*** was stuck in a traffic jam at *Haldwani Mor* and that the driver of the said vehicle, *Bablu*, was present there and could be arrested. Acting on this information, the police apprehended the driver and seized the vehicle. The said vehicle was thereafter released to its owner, who clarified that the correct registration number of vehicle was ***UP-86D-9531***.

19. It has been noted by this Court that ***UP-86D-9537*** was actually a ‘*bus*’ whereas ***UP-86D-9531*** was a ‘*TATA Truck*’. Accordingly, these are two different vehicles with different registration numbers.

20. *Mr. Soni* vehemently contended that there were discrepancies and apparent concoctions in the alleged identification of the offending vehicle after 47 days that too with some confusion regarding registration number and category of vehicle.

21. It is strange that the IO gets information from an unnamed informer regarding the so-called offending vehicle being struck in a traffic jam in the



2026:DHC:2876



State of Uttarakhand with driver *Bablu*, being there as well. How the IO or the said informer came to know that the said vehicle was the offending vehicle remains unexplained.

22. **PW1**, *Naresh Kumar*, in his evidence by way of affidavit, stated that offending vehicle had registration no. **UP-86D-9531**. In cross-examination by the counsel for the driver and owner, as well as that of the insurance company, before the MACT, he stated that he had noted down the number of the vehicle; however, the same could not be mentioned in the FIR, as the same was registered during the course of his treatment; he could also not convey the vehicle number to his brother-in-law, who registered the FIR.

23. This conduct is not only surprising, but indigestible, particularly as he stated in his testimony that he remained admitted to *Kailash Hospital, Noida*, for only one day, and thereafter was admitted to Max Hospital, Patparganj, from 6th November 2013 to 11th November 2013. He further stated that the police never came to inquire from him about the accident and volunteered that the police never asked him about the registration number of the vehicle. He also confirmed that he had not given the registration number to his brother-in-law at the time of registration of the FIR.

24. It is surprising that throughout the record there is no mention of the registration number of the offending vehicle, despite Naresh Kumar stating that he knew the registration number. However, for reasons unexplained, he chose not to share the number either with his brother-in-law who lodged the



2026:DHC:2876



FIR or with the IO. It is equally surprising that the IO did not make any effort to inquire about the registration number of the offending vehicle.

25. After 47 days of the accident, a vehicle bearing the said registration number was allegedly seized, though there was considerable confusion regarding the registration number itself. The case diary records a different offending vehicle bearing registration number ***UP-86D-9537***.

26. The Court has also examined the case diary, which records that information was received by the IO from an informer stating that a vehicle bearing registration number ***UP-86D-9537*** was standing at *Haldwani Mor* and was stuck in a traffic jam, with one Bablu present in it. The basis of this information, which suddenly appeared to be '*highly specific*' after 47 days from the registration of the FIR, remains unexplained, not only in respect of the registration number of the vehicle but also the name of the driver.

27. The case diary further notes that at about 09.35 a.m on 22nd December 2013, the car was seized and yet again the number is noted as ***UP-86D-9537***. There seems to be consistency in the case diary about noting this registration number, which was quite wrong, considering that even if the claimant's assertion is to be believed, the registration number was ***UP-86D-9531***.

28. Considering that claimant was in the hospital only for one day initially in *Kailash hospital* and then for five days in *Max hospital, Patparganj* and thereafter, for one day between 5th January 2014 to 6th January 2014, and then yet another for 3-4 days from 28th April 2014 to 2nd May 2014, getting his treatment, there was no reason as to why, amidst this, the most critical



2026:DHC:2876



information about the registration number of the offending vehicle, was not provided to the IO.

29. The Court also notes that the claimant was a *senior insurance executive* and therefore, was obviously quite aware of the processes which are undertaken in motor accident cases. It would be quite incredulous to imagine that out of complete naivety and innocence, the claimant did not give the registration number of the offending vehicle to the IO or ensure that the same would be registered.

30. In the opinion of this Court, various parts of story do not fit. The mere fact that a charge-sheet was ultimately filed against a vehicle that was later seized, and against its driver, cannot, in the facts and circumstances of the present case, be treated as conclusive proof that the death of the claimant's wife and the injuries sustained by the claimant were caused due to the rash and negligent driving of the alleged offending vehicle bearing registration number ***UP-86D-9531***.

31. MACT's assessment that the evidence of **PW1** would be determinative, as well as that of **PW4**, *Dalchand Tiwari*, who investigated the FIR, may not be tenable. It does seem that the alleged offending vehicle was falsely implicated, possibly in collaboration and consultation between **PW1** and **PW4**, and therefore the testimonies of both **PW1** and **PW4** cannot be relied upon.

32. Even if the Court were to simplicitor rely on the case diary, then also repeated mention of registration number ***UP-86D-9537*** would come into



2026:DHC:2876



question. The discrepancy is being explained by counsel for the claimants stating that it was merely a clerical or typographical error. However, the police records cannot be so off track as to record not only an entirely different registration number but also a different type of vehicle, i.e. a *bus* rather than a *Tata 909*.

33. Nevertheless, the Court has not based its final conclusion solely on this discrepancy and leaves open the possibility that the number may have been incorrectly recorded. The MACT has noted that there exists a judicial order passed by a Magistrate in Uttar Pradesh releasing vehicle bearing registration number **UP-86D-9537** on *superdari*. In the application moved before the jurisdictional magistrate by the registered owner of the vehicle, the vehicle number was mentioned as **UP-86D-9537**. Subsequently, another application was filed by the owner stating that the earlier mention of the number was due to a clerical mistake.

34. Accordingly, the Court is inclined to allow the appeal filed by the insurance company, and the finding of the Tribunal with regard to Issue No. 1 relating to negligence is held to be unsustainable and the impugned award is set aside.

35. *Vide* order dated 28th May 2024, this Court stayed the execution of the impugned award in MACT No.35/2014 and MACT No.34/2014, respectively, subject to appellant/Insurance Company depositing the entire amount of compensation along with accrued interest with the Tribunal.



2026:DHC:2876



36. Accordingly, the Tribunal is directed to release the amount of compensation deposited by Insurance Company with the accrued interest to the appellant/Insurance Company.

37. If any amount has been released to the claimant the same shall not be recoverable from the claimant.

38. Considering that this is case of 'hit and run' by an untraceable vehicle, the claimants is at liberty to approach *Uttar Pradesh Legal Service Authority* (since the accident took place in *Greater Noida*) to seek compensation, or alternatively, claimants may seek compensation under *Compensation to Victims of Hit and Run Motor Accidents Scheme, 2022*, if applicable.

39. Appeal stands disposed of in above terms.

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

41. Copy of this judgment be sent to the concerned MACT and bank.

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

**ANISH DAYAL
(JUDGE)**

MARCH 20, 2026/sm/bp