



2026:DHC:3476



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

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**Date of decision: 23<sup>rd</sup> April 2026**+ **MAC.APP. 451/2023**

VIMLESH YADAV AND ORS

.....Appellants

Through: Mr. Praveen Kumar Singh, Mr. C.  
Sanal Namhiar, Mr. Abhinav  
Shailly, Ms. Chetna Singh and Ms.  
Swati Dwivedi Advs.

versus

HARI OM AND ORS

.....Respondents

Through: Mr. Tarkeshwar Nath and Mr.  
Harshit Singh, Advs. for R-3/OIC.**CORAM:****HON'BLE MR. JUSTICE ANISH DAYAL****JUDGMENT****ANISH DAYAL, J (Oral)**

1. *Mr. Praveen Kumar Singh*, counsel for claimants, assails the award dated 31<sup>st</sup> March 2023 passed by Motor Accidents Claims Tribunal ('*MACT*'), South-West District, Dwarka Courts in MACP No. 475/2017, whereby the claim filed by the claimants was dismissed as negligence of driver could not be proved.

2. The present case pertains to an accident that occurred on 24<sup>th</sup> August 2016, wherein the deceased, a trained Army Commando, qualified for NSG, aged 31 years, was travelling on his *Honda Activa Scooty* from *Delhi Cantt to Manesar, Haryana*, when he was hit from behind by a *Chevrolet Enjoy* taxi bearing no. *HR-55U-7317*, driven by respondent no.1, owned by respondent no.2 and insured by respondent no.3.



3. The MACT concluded that the claimants, being the Legal Representatives of the deceased (*wife, two sons and parents*) were unable to prove negligence on part of the driver of the offending vehicle for the purposes of the claim under Section 166 of Motor Vehicles Act 1988 (*'MV Act'*), and accordingly dismissed the claim.

4. *Mr. Praveen Kumar Sharma*, however, took this Court through the FIR, the chargesheet, the mechanical inspection report, the site plan, and the statement given by the owner under Section 133 of the MV Act.

5. Counsel for appellant relies on the decision in *National Insurance Co. Ltd. v. Pushpa Rana*, 2007 SCC OnLine Del 1700 and *Ranjeet v. Abdul Kayam Neb*, 2025 SCC OnLine SC 497, wherein the Courts have stated that once the chargesheet has been filed, no further evidence is required, even if the eyewitnesses have not examined.

6. He also contends that the driver and the owner did not choose to appear before the MACT to rebut the allegation of negligence, and relies upon *Ramanibala Das & Anr. v. Ajit Das & Ors*, 2023 SCC OnLine Cal 3074 and *United India & Insurance Co. Ltd. v. Deepak Goel & Ors*, 2014 SCC OnLine Del 362.

7. It was also contended that absence of an eyewitness will not be detrimental to establish negligence on the touchstone of preponderance of probabilities as stated in *Bimla Devi and Ors v. Himachal Roadways and Ors*, (2009) 13 SCC 530.

8. *Mr. Tarkeshwar Nath*, counsel for Insurance Company, pressed the following arguments:

- (i) There was no eyewitness to the accident.



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- (ii) Testimony of **PW-1**, *Vimlesh Yadav*, the wife of the deceased, would not be relevant, since she was telephonically informed by the police about the accident.
- (iii) Chargesheet filed did not name any eyewitness.
- (iv) Even if in the chargesheet investigation came to a conclusion of charging respondent no. 1 for offences under the IPC, the same does not amount to a finding of rash and negligent driving.
- (v) Reliance was placed on the decision of the Hon'ble Supreme Court in *Meena Variyal v. Oriental Insurance Co. Ltd.* (2007) 5 SCC 428.

### Analysis

9. It is important to note that, as per the site plan, the collision occurred on the right side of the carriageway. The mechanical inspection report of the *Chevrolet Enjoy* taxi shows that the front bumper on the conductor's side was caved in, and there were scratches and dents on the fender and front window panel.

10. Moreover, statement of owner of the offending vehicle is categorical in that the accident was caused by the car belonging to the company/ respondent no.2, and at the time of accident, respondent no.1 was driving the car.

11. Once the FIR was registered and a chargesheet was filed against the driver of the offending vehicle, the driver can be held negligent even in the absence of an eyewitness. This is in consonance with the decisions of the Supreme Court in *Ranjeet v. Abdul Kayam Neb* (*supra*) and *Srikrishna Kanta Singh v. Oriental Insurance Co. Ltd.*, 2025 SCC



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OnLine SC 636.

12. Recently, this Court has also considered these aspects of proving negligence, lack of eyewitnesses, principle of *res ipsa loquitur* and procedure entailed before the MACT in ***National Insurance Co. Ltd. V Shehnaj Begum & Ors***, 2026:DHC:3169 and ***Oriental Insurance Co. v. Sunita Singh*** 2026:DHC:3190, wherein the judgments of the Supreme Court have been considered in some details.

13. This Court, in ***Sunita Singh*** (*supra*), observed as regards the issue of negligence as under:

“49. Therefore, the Court is of the opinion that, in this process, the Tribunal can rely upon testimonies made in a Criminal Proceeding, which has led to filing of a charge sheet, which has not been set aside or protested, to be persuasive data to apply the test of preponderance of probabilities.

50. Which is why the line of reasoning provided by this Court in Pushpa Rana (*supra*), as noted above in paragraph 18, has been repeatedly endorsed, till, as recently as in Mathew Alexander (*supra*), which relied upon a line of judgments upholding the principle of preponderance of probabilities.

51. Therefore, the Court does not find anything amiss in the impugned award passed by the Tribunal, post the remand, having relied upon the testimony of eyewitness before the Criminal Court, and the factum of FIR followed by a charge sheet, thereby, holding respondent no.5/driver of offending vehicle as negligent. To this extent, plea of the appellant/Insurance Company is not tenable.”

(emphasis supplied)



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14. Further, this court in *Shehnaj Begum* (*supra*), elucidated the three fundamental pillars for assessment of negligence. The relevant paragraphs are extracted as under:

*“39. First, that the proceedings before the Motor Accident Claims Tribunal are in nature of an inquiry and are not hemmed in by rules of procedure or evidence. The Supreme Court in Shila Datta (supra) [passages extracted in paragraph 20 (a) above], has elaborated on this aspect. Essentially, a claim under Section 165 of the MV Act, is neither a suit nor an adversarial lis.*

*40. Tribunal holds an inquiry and makes an award to determine compensation, which ought to be just and reasonable. The procedure to be followed is summarised in the best discretion of the Tribunal. It has the power under Section 169 of MV Act to summon persons possessing special knowledge of the matters relevant to the inquiry.*

...

*42. Having clearly sketched the contours of the procedure undertaken by a Tribunal, it brings us to the second issue, which is determination of negligence. The nature of the accident and the basic facts surrounding the same are presented before the Tribunal in the form of a DAR (Detailed Accident Report), or through an FIR, or a recording in a police diary, along with the claim for compensation. In order to arrive at an assessment of negligence and, therefore, consequential liability in tort law, the principle of res ipsa loquitur, particularly in accident cases, is often brought into play.*

...

*45. Therefore, for application of the principle, it must be shown that the offending vehicle was under the management of the defendant and that the accident was*



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such that, in the ordinary course of things, it would not have happened if those who were in management had used proper care. Having reached a reasonable inference based on the facts of the accident and being presented with a defence raised by defendants that they exercised care to avert foreseeable harm, the issue before the Tribunal would be how to balance the two aspects and what parameter is to be applied in measuring this balance, or in assessing which side the scales tilt.

46. This brings us to the third aspect, which is the test to be applied. It is well settled that the test or the burden of proof which applies is not that of beyond a reasonable doubt (as in criminal cases), but on the test of preponderance of probabilities.

...

48. This would effectively mean that the Tribunal is required to weigh the material placed before it, including the police record, evidence, testimonies, documentary evidence, to determine which way the balance tilts, i.e. “what is more probable?”.”

...

51. The ‘basic principles of law’ are those that have been touched upon above, which can be usefully termed as the ‘three fundamental pillars’ for assessment of negligence (i.e. proceeding is in nature of inquiries, application of res ipsa loquitur doctrine and use of preponderance of probability as the balancing test).”

(emphasis supplied)

15. In view of the above, this Court is inclined to set aside the MACT award insofar as it dismisses the claim on the ground that negligence has not been proved. The material on record, including the FIR, chargesheet, site plan, mechanical inspection report, and the settled position of law,



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clearly satisfies the test of preponderance of probabilities. Since this threshold has been crossed by appellant, the only issue that remains for consideration is the quantum of compensation.

16. Accordingly, the matter is remanded back to the MACT with a direction to dispose of the same within a period of three months, considering that the accident occurred in the year 2016 and nearly a decade has elapsed since.

17. List before the MACT on 06<sup>th</sup> May 2026.

18. Accordingly, appeal is disposed of in above terms. Pending applications (if any) are rendered infructuous.

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

**ANISH DAYAL  
(JUDGE)**

**APRIL 23, 2026/RK/zb**