



2026:DHC:1644



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

% ***Date of decision: 24<sup>th</sup> February 2026***

+ **MAC.APP. 37/2017**

NATIONAL INSURANCE CO. LTD. Appellant

Through: Mr. Prakhar Mani Tripathi,  
Advocate.

versus

KUSUM KUMARI & ORS. ....Respondents

Through: Ms. Aruna Mehta, Mr. Lakshay  
Mehta, Advocates for R-1 to R-4.

**CORAM:**

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

**JUDGMENT**

**ANISH DAYAL, J (ORAL)**

1. This appeal has been filed by the Insurance Company assailing the Award dated 8<sup>th</sup> November 2016 passed by the Motor Accident Claims Tribunal, North East District, Karkardooma Courts, Delhi [*'Tribunal'*] in *MACT No.385/2012* and *MACT New No.14755/2015*.

**Incident**

2. Accident occurred on 26<sup>th</sup> June 2012 at about 3:20 A.M. near the *Shastri Park* red light, within the jurisdiction of Police Station *New Usman Pur*. Deceased, *Late Shri Ram Nath*, was travelling towards *Ghaziabad* in truck bearing registration no. *HR-38G-1331* along with its driver, *Babu*



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*Ram*. The said vehicle, allegedly being driven in a rash and negligent manner, collided with a stationary truck bearing registration no. *HR-38J-1575* stationed ahead at the traffic signal, resulting in grievous injuries to the deceased and the driver. Both were removed to *Jag Pravesh Hospital*, where deceased succumbed to the injuries during the course of treatment. **FIR No.173/2012** under Sections 279/337/304-A of the Indian Penal Code 1860 [*IPC*] was registered in respect of the accident. The offending vehicle was insured for the relevant period. Legal representatives [*LRs*] of the deceased filed a claim petition on 31<sup>st</sup> October 2012 seeking compensation of *Rs. 20,00,000/-*, stating that deceased was employed as a conductor/helper with *M/s. Kuber Enterprises*.

### **Impugned Award**

3. The Tribunal, upon consideration of the pleadings and evidence, returned a finding that the accident occurred due to rash and negligent driving of the offending truck. In arriving at this conclusion, the Tribunal relied upon the testimony of the eye-witness [driver of the stationary truck], the Detailed Accident Report [*DAR*], FIR, site plan, post-mortem report and mechanical inspection report.

4. The Tribunal observed that these materials constituted sufficient proof of negligence in motor accident claim proceedings, which are to be decided on the touchstone of preponderance of probabilities and not strict rules of evidence. The driver of the offending vehicle did not enter the witness box to rebut the claim, and no contrary evidence was led on behalf of the respondents.



5. For assessment of compensation, the Tribunal considered the evidence of *Smt. Kusum Kumari*, wife of deceased [PW-1], who stated that the deceased was employed as a conductor/helper. However, in the absence of proof from the employer, the Tribunal assessed the income on the basis of minimum wages applicable to an ‘*unskilled*’ worker at the time of the accident, i.e. *Rs. 7,020/-* per month. The age of the deceased was taken in the bracket of 41–45 years based on the post-mortem report and documentary record, and the multiplier of ‘14’ was applied in terms of *Sarla Verma v. DTC* (2009) 6 SCC 121. Considering that the deceased was survived by four dependants, *one-fourth* of the income was deducted towards *personal expenses*, and *future prospects* at the rate of 30% were added. The Tribunal accordingly computed the loss of dependency.

6. The Tribunal further held that the offending vehicle was duly insured and, there being no proof of policy violation or that the deceased was a gratuitous passenger, the insurer was liable to satisfy the award.

### **Compensation awarded**

7. On the basis of the above assessment, the Tribunal awarded a total compensation of *Rs. 13,84,876/-* in favour of the LRs of deceased, comprising *Rs. 11,49,876/-* towards *loss of dependency* and amounts under conventional heads, namely *Rs. 1,00,000/-* towards *loss of love and affection*, *Rs. 1,00,000/-* towards *loss of consortium*, *Rs. 10,000/-* towards *loss of estate* and *Rs. 25,000/-* towards funeral expenses. The award was directed to carry interest @ 9% per annum from the date of filing of the petition till realization, payable by the insurer.



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8. The compensation awarded by the Tribunal is summarised as under:

| S.NO            | HEADS                                  | AWARDED BY TRIBUNAL    |
|-----------------|--|------------------------|
| 1.              | Loss of Dependency                     | Rs. 11,49,876/-        |
| 2.              | Loss of Love and Affection to Children | Rs. 1,00,000/-         |
| 3.              | Funeral Expenses                       | Rs.25,000/-            |
| 4.              | Loss of Estate                         | Rs.10,000/-            |
| 5.              | Loss of Consortium                     | Rs.1,00,000/-          |
| <b>TOTAL</b>    |  | <b>Rs. 13,84,876/-</b> |
| <b>INTEREST</b> |  | <b>9%</b>              |

### Analysis

9. Mr. Prakhar Mani Tripathi, counsel for appellant/Insurance Company, contends that the deceased was a “*gratuitous passenger*” travelling in the truck bearing registration no.HR-38G-1331, which struck a stationary truck bearing registration no.HR-38J-1575 on 26th June 2012 at about 03:20 a.m., resulting in the death of Sh. Ram Nath [deceased].

10. The appellant/Insurance Company raised a plea before the Tribunal that deceased was travelling as a “*gratuitous passenger*” in a truck which was owned by M/s Pushpa Trading Corporation, and that the deceased was an employee of M/s Kuber Enterprises.

11. The Tribunal undertook the assessment in paragraph nos.6 & 7 of the impugned award. It noted the statement of Smt. Kusum Kumari, wife of deceased [PW1], who stated in her affidavit exhibited as Ex.PW1/A that the deceased was working as a “*conductor/helper*” with M/s Kuber Enterprises and was earning a salary of Rs.7,748/- per month. The



Insurance Company, therefore, stated that the deceased was a “*gratuitous passenger*” and unrelated to *M/s Pushpa Trading Corporation* and, therefore, was not covered under the insurance policy for the goods-carrying.

12. The Tribunal, however, noted that there was no evidence to show that the deceased was travelling as a “*gratuitous passenger*”, and no such suggestion was even given to the witness that the deceased was a “*gratuitous passenger*”. On the contrary, it was argued by the claimant that he was transporting the goods of *M/s Kuber Enterprises* in the truck and was travelling as the owner of the goods in the offending vehicle and, therefore, was covered under insurance policy in terms of *Section 147(1)* of the Motor Vehicles Act, 1988 [*‘MV Act’*].

13. In the opinion of this Court, the plea of the insurer that the deceased was travelling as a “*gratuitous passenger*” is liable to be rejected, for the reasons that follow.

14. The term “*gratuitous passenger*” though not defined by the MV Act, means an individual who travels in a vehicle without paying a fare or providing any economic benefit to the driver or owner, often riding by invitation, or having been given a lift. However, *Section 147 (1) (b) (ii)* of the MV Act expressly exempts the case of a “*gratuitous passenger*” in a goods vehicle in a public place.

15. *Section 147* of the MV Act provides for the requirements of an insurance policy and limits of liability. For ease of reference said section is extracted as under:



**“147. Requirement of policies and limits of liability.—(1)** In order to comply with the requirements of this Chapter, a policy of insurance must be a policy which—  
(a) is issued by a person who is an authorised insurer; and  
(b) insures the person or classes of persons specified in the policy to the extent specified in sub-section (2)—

(i) against any liability which may be incurred by him in respect of the death of or bodily injury to any person including owner of the goods or his authorised representative carried in the motor vehicle or damage to any property of a third party caused by or arising out of the use of the motor vehicle in a public place;  
(ii) against the death of or bodily injury to any passenger of a transport vehicle, except gratuitous passengers of a goods vehicle, caused by or arising out of the use of the motor vehicle in a public place.

*Explanation.—For the removal of doubts, it is hereby clarified that the death of or bodily injury to any person or damage to any property of a third party shall be deemed to have been caused by or to have arisen out of, the use of a vehicle in a public place, notwithstanding that the person who is dead or injured or the property which is damaged was not in a public place at the time of the accident, if the act or omission which led to the accident occurred in a public place.*

.....  
(6) Notwithstanding anything contained in any other law for the time being in force, an insurer issuing a policy of insurance under this section shall be liable to indemnify the person or classes of persons specified in the policy in respect of any liability which the policy purports to cover in the case of that person or those classes of persons.”

(emphasis added)



16. In *New India Assurance Co. Ltd. v. Asha Rani* (2003) 2 SCC 223, the Supreme Court clarified that a goods vehicle is not meant for carrying passengers and “*gratuitous passengers*” are not covered under the statutory policy. However, the statutory scheme underwent a material change with the 1994 amendment to *Section 147* of the MV Act, whereby the policy is required to cover the owner of goods or his authorised representative travelling in the vehicle. Relevant paragraphs are extracted as under:

“25. Section 147 of the 1988 Act, inter alia, prescribes compulsory coverage against the death of or bodily injury to any passenger of “public service vehicle”. Proviso appended thereto categorically states that compulsory coverage in respect of drivers and conductors of public service vehicle and employees carried in a goods vehicle would be limited to the liability under the Workmen's Compensation Act. It does not speak of any passenger in a “goods carriage”.

26. In view of the changes in the relevant provisions in the 1988 Act vis-à-vis the 1939 Act, we are of the opinion that the meaning of the words “any person” must also be attributed having regard to the context in which they have been used i.e. “a third party”. Keeping in view the provisions of the 1988 Act, we are of the opinion that as the provisions thereof do not enjoin any statutory liability on the owner of a vehicle to get his vehicle insured for any passenger travelling in a goods vehicle, the insurers would not be liable therefor.

27. Furthermore, sub-clause (i) of clause (b) of sub-section (1) of Section 147 speaks of liability which may be incurred by the owner of a vehicle in respect of death of or bodily injury to any person or damage to any property of a third party caused by or arising out of the use of the vehicle in a



public place, whereas sub-clause (ii) thereof deals with liability which may be incurred by the owner of a vehicle against the death of or bodily injury to any passenger of a public service vehicle caused by or arising out of the use of the vehicle in a public place.”

(emphasis added)

17. This position was further explained in ***National Insurance Co. Ltd. v. Baljit Kaur*** (2004) 2 SCC 1, wherein the Supreme Court recognized that, after the amendment, the risk of the owner of goods or his authorised representative carried in a goods vehicle stands statutorily covered, though “*gratuitous passengers*” remain excluded. Thus, the determinative question is whether the occupant had a nexus with the goods or the business purpose of the vehicle. Relevant paragraphs are extracted as under:

“12. We find ourselves unable, furthermore, to countenance the contention of the respondents that the words “any person” as used in Section 147 of the Motor Vehicles Act, would be rendered otiose by an interpretation that removed gratuitous passengers from the ambit of the same. It was observed by this Court in the case concerning *New India Assurance Co. Ltd. v. Asha Rani* [(2003) 2 SCC 223 : 2003 SCC (Cri) 493] that the true purport of the words “any person” is to be found in the liability of the insurer for third-party risk, which was sought to be provided for by the enactment.

.....

17. By reason of the 1994 amendment what was added is “including owner of the goods or his authorised representative carried in the vehicle”. The liability of the owner of the vehicle to insure it compulsorily, thus, by reason of the aforementioned amendment included only



*the owner of the goods or his authorised representative carried in the vehicle besides the third parties. The intention of Parliament, therefore, could not have been that the words “any person” occurring in Section 147 would cover all persons who were travelling in a goods carriage in any capacity whatsoever. If such was the intention, there was no necessity of Parliament to carry out an amendment inasmuch as the expression “any person” contained in sub-clause (i) of clause (b) of sub-section (1) of Section 147 would have included the owner of the goods or his authorised representative besides the passengers who are gratuitous or otherwise.*

.....

*20. It is, therefore, manifest that in spite of the amendment of 1994, the effect of the provision contained in Section 147 with respect to persons other than the owner of the goods or his authorized representative remains the same. Although the owner of the goods or his authorized representative would now be covered by the policy of insurance in respect of a goods vehicle, it was not the intention of the legislature to provide for the liability of the insurer with respect to passengers, especially gratuitous passengers, who were neither contemplated at the time the contract of insurance was entered into, nor was any premium paid to the extent of the benefit of insurance to such category of people.*

(emphasis added)

18. In the present case, the evidence establishes that the deceased was travelling in the offending vehicle in his capacity as “conductor/helper” and in connection with the goods being transported. Such presence cannot be equated with that of a “gratuitous passenger”. The appellant/ Insurance



Company led no evidence to demonstrate that the deceased was an unauthorized occupant or that there was any breach of policy conditions.

19. Recently, this Court, in the matter of ***Reliance General Insurance Co. Ltd. v. Mohd. Nahid*** 2026:DHC:1464, reiterated that where the claimant is travelling in a goods vehicle as the owner of goods or their authorised representative, or in connection with the goods being transported, the statutory coverage under *Section 147* applies. The Court further held that in the absence of effective cross-examination or contrary evidence, the testimony regarding such capacity cannot be disregarded. Relevant paragraph is extracted as under:

*“18. .... The said section was amended in 1994, to require a policy of insurance to cover liability towards the owner of goods carried in a vehicle, or his authorised representative. It has been thus interpreted in several decision of the Supreme Court, including inter alia in New India Assurance Co. Ltd. v. Asha Rani & Ors.4 and National Insurance Co. Ltd. v. Baljit Kaur & Ors.5 .*

*19. In the present case, the claimant claimed coverage on the basis that he was the owner of the goods which were being carried in the vehicle, or the authorised representative of the owner. In the claim petition, the claimant asserted that he was going to HSIDC Balbal, Haryana, from Dharuhera in the offending vehicle, which “was loaded with goods which belong with the petitioner. The claimant also filed an affidavit of evidence before the Tribunal, which included the statement that the offending vehicle was loaded with goods belonging to him. With regard to his vocation, he stated he was a painter [whitewasher] in the area of East Delhi.”.....*

.....



21. ....Although general cross- examination was carried out as to the purpose of his travel, there was no cross-examination whatsoever, as to the alleged discrepancy between the Section 161 of the CrPC statement and the claim petition, or evidence before the Tribunal. The claimant maintained that he was carrying his goods in the vehicle, and denied that he was travelling as a gratuitous passenger. Without his testimony having been challenged in cross-examination at all, the Tribunal committed no error in proceeding on the basis of the evidence given by the claimant. Although the Tribunal has not elaborately discussed this aspect, its conclusion is recorded in paragraph 28 of the impugned award, to the effect that there was nothing on the record to show any violation of policy conditions.

.....

23. In view of the Section 147 of the MV Act, as interpreted in Baljit Kaur, I am of the view that the present claimant was covered by the insurance policy in question.”

(emphasis added)

20. Ms. Aruna Mehta, counsel for respondent nos.1-4/claimant, points out to the written statement filed on behalf of respondent nos.5 & 6 [*driver & owner of the offending vehicle*], wherein it was stated in *paragraph 5* that it was admitted that the deceased was a “*conductor/helper*” with *M/s Kuber Enterprises*, having its office at *10-A, Gali No.2, East Guru Angad Nagar, Delhi*, and was on the offending truck along with the goods of *M/s Kuber Enterprises*. This was in response to the claim petition, in which it was stated in *serial no.5* of the table that the deceased was a “*conductor/helper*” with *M/s Kuber Enterprises*. The said having been admitted by the respondent nos.5 & 6 [*driver & owner of the offending*



vehicle], the question of appellant/Insurance Company raising a doubt in this regard did not arise.

21. The Court is, therefore, not inclined to sustain the plea of the appellant/Insurance Company. No steps were taken by the appellant/Insurance Company to controvert the evidence given by the respondent no.5 [*driver*] and respondent no.6 [*owner*] or to bring them to the witness stand in order to challenge the evidence provided in the affidavits.

22. Accordingly, this appeal stands dismissed.

23. This Court notices that there are certain heads of compensation which are not aligned with the principles enunciated in *National Insurance Co. Ltd. v. Pranay Sethi* (2017) 16 SCC 680.

24. Accordingly, *loss of love and affection* granted at Rs.1,00,000/- shall not be granted in terms of *United India Insurance Co. Ltd. v. Satinder Kaur*, (2021) 11 SCC 780; *loss of consortium* granted at Rs.1,00,000/- will be Rs.1,60,000/- [40,000 × 4 dependents]; *loss of estate* would be at Rs.15,000/-; and *funeral expenses* will be at Rs.15,000/-.

25. Accordingly, compensation is re-computed as under:

| S. NO. | HEADS                                       | AWARDED BY THE TRIBUNAL | AWARDED BY THIS COURT |
|--------|---|-------------------------|-----------------------|
| 1.     | Income of deceased (A)<br>(less Income Tax) | Rs. 7020/-              | Rs. 7020/-            |
| 2.     | Add Future Prospects (B)                    | Rs. 2106/-<br>[30%]     | Rs. 2106/-<br>[30%]   |



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|     |   |                        |                               |
|-----|---|------------------------|-------------------------------|
| 3.  | Less Personal expenses of the deceased (C)      | 1/4 <sup>th</sup>      | 1/4 <sup>th</sup>             |
| 4.  | Monthly loss of dependency [(A +B)-C = D]       | Rs.6844.5/-            | Rs.6844.5/-                   |
| 5.  | Annual loss of dependency (Dx12)                | Rs.82,134/-            | Rs.82,134/-                   |
| 6.  | Multiplier (E)                                  | 14                     | 14                            |
| 7.  | Total loss of dependency (Dx12xE = F)           | Rs.11,49,876/-         | Rs.11,49,876/-                |
| 8.  | Medical expenses (G)                            | Nil                    | Nil                           |
| 9.  | Compensation for loss of consortium (H)         | Rs.1,00,000/-          | Rs.1,60,000/-<br>[40,000 × 4] |
| 10. | Compensation for loss of love and affection (I) | Rs.1,00,000/-          | Nil                           |
| 11. | Compensation for loss of estate (J)             | Rs.10,000/-            | Rs.15,000/-                   |
| 12. | Compensation towards funeral expenses (K)       | Rs.25,000/-            | Rs.15,000/-                   |
|     | <b>Total compensation (F+G+G+I+J+K = L)</b>     | <b>Rs. 13,84,876/-</b> | <b>Rs. 13,39,876/-</b>        |
|     | <b>Interest Awarded</b>                         | <b>9%</b>              | <b>9%</b>                     |

### Conclusion

26. According the compensation is adjusted to a total of Rs.13,39,876/- and a difference of Rs.45,000/- has been arrived at after readjustment of



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the compensation as per the principles enunciated in *National Insurance Co. Ltd. v. Pranay Sethi* (*supra*).

27. The entire awarded amount along with interest was deposited by the appellant/Insurance Company pursuant to order dated 13<sup>th</sup> January 2017. By order dated 27<sup>th</sup> March 2017 passed by this Court, 50% of the awarded amount was released in favour of claimants.

28. Since the order of the Tribunal stands confirmed, the remaining amount, shall be disbursed as per the directions passed by the Tribunal in the impugned award and shall continue to be released, subject to the readjusted amount of *Rs.45,000/-*, with which proportionate accrued interest shall be refunded to the appellant/Insurance Company.

29. Accordingly, the appeal stands dismissed.

30. Pending applications (if any) are rendered infructuous.

31. Statutory deposit (if any) be refunded to appellant.

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

**ANISH DAYAL  
(JUDGE)**

**FEBRUARY 24, 2026/ak/tk**