



2025:DHC:9689



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Decided on 03.11.2025.

+ **MAC.APP. 697/2025**
NEW INDIA ASSURANCE CO. LTD.Appellant
Through: Mr. Salil Paul, Mr. Sahil Paul, Mr.
Sandeep Dayal, Advocates.

versus

DILSHAD & ORS.Respondents
Through:

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN
PRATEEK JALAN, J (ORAL)

CM APPLs. 68202-68203/2025 (for exemption)

Exemptions allowed, subject to all just exceptions.

The applications stand disposed of.

MAC.APP. 697/2025 and CM APPL. 68201/2025 (for stay)

1. The appellant – New India Assurance Co. Ltd. [“the Insurance Company”], assails an award dated 14.08.2025 passed by the Motor Accident Claims Tribunal [“the Tribunal”], by which an amount of Rs. 28,06,352/-, alongwith interest at the rate of 9% per annum, has been awarded in favour of respondent No. 1 – claimant.
2. The facts, as stated in the impugned award of the Tribunal, are that the claimant was injured in an accident with a truck bearing registration No. DL-1-LW-6678 [“the insured vehicle”] on 05.08.2020. The accident took place near Bhalaswa Dairy Bus Stand in Delhi at around 3:30 PM. The allegation against respondent No. 2 [the driver of the insured vehicle]



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was that the insured vehicle was being driven in a rash and negligent manner, resulting in the claimant being hit from behind, and a bag carried by the claimant got entangled in the insured vehicle. The claimant suffered injuries as a result of the said accident.

3. The ground upon which the Insurance Company assails the award concerns award of Rs. 19,44,492/- towards loss of future earnings. The Tribunal noted that the claimant was 20 years of age, and suffered 82% permanent disability, which was taken by the Tribunal as 42% functional disability/loss of earning capacity. The quantum of the award on this aspect is assailed only on one ground; that the Tribunal has awarded damages on the basis of minimum wages in the National Capital Territory of Delhi, whereas the claimant was admittedly a resident of State of Uttar Pradesh.

4. Mr. Salil Paul, learned counsel for the Insurance Company, submits that there was no evidence on record to show that the claimant was a resident or working in Delhi.

5. Having considered the facts and circumstances of the case and the evidence on record, I am unable to agree. In the affidavit of evidence filed by the claimant before the Trial Court, he states his address as *House No. 106, Gali No. 4, Laxmi Garden, Loni, Ghaziabad, Uttar Pradesh*, and his permanent address in *District Shekhpur Ashrafpur, Kalapur, Jaunpur, Kalapur, Uttar Pradesh – 222139*. The evidence further records as follows:

“2. That the deponent live with his family on rent at the above-mentioned address. The deponent is educated upto 4th standard. The deponent works as a vendor, selling household items in different markets. During the lockdown in 2020, markets were not functioning,



so the deponent started selling items on the street. A boy named Samir, who lived in his neighbourhood, later moved to Khajuri. On 05/08/2020, the deponent went to Khajuri to pick up goods to sell, where the deponent met Samir, who told him, he would also work with his selling items. **The deponent and Samir picked up our goods from Khajuri and took an auto to Jahangirpuri area to sell them. After selling their items, they started walking home with their empty bags.**

3. That it is further submitted that the deponent wrapped his bag around his right hand and carried it. Samir and the deponent crossed the road and reached the other side of Ring Road, then started walking towards Mukundpur. The deponent was walking on the road and Samir was walking on the footpath aside the deponent. When the deponent and Samir reached near Bhalaswa Dairy Bus Stand around 3:30 pm, a truck (DL-ILW-6678) came from behind, driving very rush and negligent manner, and his bag got entangled in the truck's rear. The deponent was dragged along with the truck for some distance before a tempo driver stopped the truck, and an unknown man helped the deponent. The truck driver also came down, and the deponent and the said person went to BJRM Hospital in the same truck, where the deponent got medically examined. The deponent don't know anything about the man who helped him, hut the truck driver was present at the hospital. After 2-3 hours, the parents of the deponent reached at BJRM Hospital from their house.”

[Emphasis supplied.]

6. In cross-examination, the claimant accepted that he was a resident of Uttar Pradesh, and that he had not filed any document regarding his working or earning. These elements of cross-examination are relied upon by Mr. Paul to show that the minimum wages ought to have been taken for the State of Uttar Pradesh rather than Delhi, as there was no documentary evidence with regard to the claimant's place of work.

7. It is however evident from the extracts of the affidavit of evidence recorded above that the claimant had deposed that he is living in Ghaziabad, Uttar Pradesh, within the National Capital Region of Delhi, and that he was working as a street vendor. The evidence also discloses that the claimant was selling his goods in the Jahangirpuri area of Delhi.



These aspects of his testimony have not been challenged in cross-examination. The claimant's evidence that he was a resident of Ghaziabad, Uttar Pradesh, is not inconsistent with the evidence that he was carrying on his trade and vocation in Delhi. The fact that he had not filed any documents regarding his working or earning is also, in my view, immaterial in the context of the claimant's vocation as a street vendor. These aspects were clearly stated in the examination-in-chief and no cross-examination was conducted on the place of work, except to state that no documents have been filed regarding his working or earning at all.

8. It may be borne in mind that the Tribunal's adjudication is summary; it is not bound by strict rules of evidence, but must award such compensation, as appears to be just in the facts and circumstances of the case.

9. Mr. Paul relies upon a decision *Smt. Gaytri Devi v. The India Assurance Co. Ltd. & Ors. and connected matters* [MAC.APP. 22/2024, decided on 11.12.2024] [hereinafter, "*Gaytri Devi*"], wherein the Court dealt with a similar issue, as follows:

"17. The findings of the Claim Tribunal attributing 50% contributory negligence have to be, therefore, recalled. The compensation amount is to be worked afresh without deducting 50% from the wages of deceased Shri Ramji Vishwakarma. Minimum Wages:

18. The Insurance Company has asserted that the Minimum Wages have been taken of Delhi, when there is not an iota of evidence to prove that deceased Shri Ramji Vishwakarma was working as a Carpenter in Delhi.

19. To appreciate this assertion, reference be made to the testimony of PW1/Smt. Gaytri Devi who had deposed that deceased Shri Ramji Vishwakarma along with his father and maternal uncle, had been residing in Delhi, while the entire family was residing in Deoria, Uttar Pradesh. However, while it was deposed that deceased Shri Ramji Vishwakarma was the resident of Mangolpuri, Delhi, pertinently, no



address of deceased Shri Ramji Vishwakarma of Mangolpuri, Delhi has been given nor any proof of any kind showing that he was working as a Carpenter in Delhi, has been furnished.

20. A reference may be made to the Handing over Receipt of Dead Body Ex. PW1/4, wherein deceased Shri Ramji Vishwakarma has been shown as resident of Deoria, Uttar Pradesh. In the Death Certificate, Funeral Receipt, medical documents, the deceased is shown as the resident of UP. Pertinently, Niwas/Character Certificate dated 11.12.2021 issued by the Gram Pradhan, certifies that deceased Shri Ramji Vishwakarma was the resident of Deoria, Uttar Pradesh. The Voter I-Card of deceased Shri Ramji Vishwakarma also shows him as the resident of Deoria, Uttar Pradesh. Not a single document has been produced to corroborate that deceased Shri Ramji Vishwakarma was residing and working in Delhi.

21. There can be no denying that the deceased could have been residing/working in Delhi, while his family resided in UP, but then the Appellants should have been able to adduce some evidence about his address, but unfortunately all the documents establish that he was not residing and working in Delhi.

22. The learned Claim Tribunal thus, fell in error in taking the Minimum Wages of Delhi when it should have been of Uttar Pradesh for unskilled worker.”

10. In my view, the aforesaid judgement is distinguishable. The contention in that case was that the deceased was a resident of Mangolpuri, Delhi, but no details of his address were given nor any proof that he was working in Delhi. In fact, the Court in paragraph 21 specifically noted that the deceased could have been a resident/working in Delhi while his family resided in Uttar Pradesh, but then the appellants should have been able to adduce some evidence about his address, but unfortunately all the documents before the Court established that he was not residing or working in Delhi. In the present case, in contrast, the claimant's clear testimony was that he was living at a specific address in Ghaziabad, Uttar Pradesh, and carrying on his vocation within Delhi, which is not unbelievable, and was not specifically subjected to cross-



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examination. In these circumstances, the judgment in *Gaytri Devi* is clearly distinguishable.

11. As no other ground is urged in support of the appeal, I do not find any infirmity in the view taken by the Tribunal.

12. The appeal, alongwith the pending application, is therefore dismissed.

13. The statutory deposit of Rs. 25,000/-, if deposited, will be refunded to the appellant.

PRATEEK JALAN, J

NOVEMBER 3, 2025

'Bhupi'/AD/