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

% ***Decided on: 12.12.2025***

+ **MAC.APP. 793/2025 & CM APPLs. 78679-78681/2025**

YOGESH YADAV

.....Appellant

Through: **Mr. Satish Dabas, Mr. Sandeep
Singh Nainwal, Advocates.**

versus

GANESH CHANDER AND ANR

.....Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

PRATEEK JALAN, J. (ORAL)

1. The appellant, who was the driver-cum-owner of a water tanker bearing registration No. HR-55K-7128 [“the insured vehicle”], assails an award of the Motor Accident Claims Tribunal [“Tribunal”] dated 18.09.2024 in MACT. No. 434/2017.

2. The impugned award, the Detailed Accident Report [“DAR”], and the evidence recorded by the Tribunal, have been filed alongwith the appeal.

A. FACTS

3. The facts of the accident, as narrated in the award, are that the claimant [respondent No.1 herein] was employed as a guard with L&T Company through a security agency by the name of Shri Bala Ji Security Service. He was on duty at Gate No. 3 of Indira Gandhi Hospital, Sector-



9, Dwarka, New Delhi, in the early hours of 14.09.2016, when he was hit by the insured vehicle. He sustained injuries as a result of the accident, and remained hospitalised at Shree Hospital, Sector-12, Dwarka, New Delhi, from 14.09.2016 to 30.09.2016.

4. On 05.10.2016, on the basis of the claimant's statement made to the police, FIR No. 525/2016 was registered against the appellant, under Sections 279 and 337 of the Indian Penal Code, 1860. The police has also filed a chargesheet in the criminal proceedings.

B. IMPUGNED AWARD

5. Upon submission of the DAR before the Tribunal, the Tribunal considered the case of the injured victim for compensation, in which the present appellant and the insurer of the vehicle [respondent No. 2 herein, National Insurance Company Limited], were arrayed as respondents. The Tribunal returned a finding of negligence against the appellant. Based upon a disability certificate dated 20.11.2018 [PW-2/1], in which the claimant was assessed to have sustained 18% permanent physical disability in relation to his lower limb, the Tribunal computed his loss of earning capacity at 10%, having regard to the nature and extent of his injuries, and occupation as a security guard, relying upon the judgment of the Supreme Court in *Raj Kumar v. Ajay Kumar*¹. It made a final award of Rs. 5,06,100/-, with interest at the rate of 7.5% per annum, against the appellant and respondent No. 2, under the following heads:

Sr. No	Heads	Amount
1.	Medicines & Treatment	Rs.18,802/-
2.	Conveyance	Rs.20,000/-

¹ (2011) 1 SCC 343.



3.	Special Diet	Rs.20,000/-
4.	Attendant Charges	Rs.12,000/-
5.	Loss of Income	Rs.43,056/-
6.	Pain & Suffering	Rs.50,000/-
7.	Loss of amenities of life	Rs.50,000/-
8.	Mental & Physical Shock	Rs.50,000/-
9.	Loss of future income/prospect	Rs.2,42,190/-
Total		Rs.5,06,048/- (rounded off to Rs.5,06,100/-)

6. On the question of liability, the Insurance Company was directed to deposit the amount, but with the right to recover the same from the appellant. The Tribunal found that the appellant did not possess a valid driving license for driving a heavy vehicle and that, the accident having occurred while he was driving the water tanker, he was liable to pay the compensation amount.

C. GROUNDS URGED IN APPEAL

7. Mr. Satish Dabas, learned counsel for the appellant, raises two grounds in support of the appeal:

- a. That the Tribunal has erred in coming to the conclusion of negligence against the appellant and ought, at least, to have found the injured claimant, responsible for contributory negligence.
- b. That the Tribunal has erred in granting recovery rights to the Insurance Company against the appellant.

D. RE: FINDING OF NEGLIGENCE

8. As far as the finding of negligence against the appellant, is concerned, Mr. Dabas submits that the accident occurred at about 04:00 AM on 14.09.2016, when it was still dark. According to him, the claimant



was sitting behind the water tanker while it was supplying water to the hospital. The tanker thereafter started reversing at a slow speed, but hit the claimant. He submits that the claimant's act of sitting behind the parked water tanker while it was supplying water, was imprudent and reckless for which, at the very least, contributory negligence ought to have been assessed against the claimant.

9. It may be noted that the appellant did not lead any evidence before the Tribunal. The only evidence with regard to the circumstances of the accident was led by the claimant, who examined himself as PW-1. In his affidavit of evidence, he stated as follows:

*"1. That on 14-09-2016 at about 04.00 A.M. I was on my duty at Gate No.3 in Indra Gandhi Hospital Sec-9, Dwarka, New Delhi. **When the driver of Water Tanker No. HR-55K-7128 took back at a very high speed driven most rashly and negligently without following any traffic rules and regulations, without any indicator and turned the above offending vehicle and hit me.** As a result of which I received fracture and other multiple grievous injuries all over body. I suffered permanent disability and deformity due to injuries received in this accident."*²

10. The claimant was cross-examined, both by learned counsel for the Insurance Company and learned counsel for the appellant. In his cross-examination by learned counsel for the Insurance Company, he stated that at the time of the accident, he was sitting on the side of the road near a gate where vehicles were being parked. In the course of cross-examination by learned counsel for the appellant, the claimant stated as follows:

"It was wrong to suggest that I was sleeping at the time of accident. It is wrong to suggest that I was sitting on a chair just behind the offending vehicle or that the accident took place to my own fault. It is wrong to suggest that there was dark at the spot and I could not

² Emphasis supplied.



see the vehicle which was being reversed and due to my own fault, accident took place. It is wrong to suggest that driver of offending vehicle reversing the said vehicle at a very slow speed and diligently or he was not at fault in causing the accident.”³

11. In his cross-examination, the claimant thus denied the suggestion that he was sleeping at the time of accident, and also denied the suggestion that he was sitting on a chair just behind the insured vehicle, or that the accident took place due to his own fault.

12. Significantly, it is undisputed that the appellant faced criminal proceedings under Sections 279 and 338 of the Indian Penal Code, 1860. The DAR placed on record shows that a final report has also been filed after investigation before the concerned Criminal Court.

13. The general principle is that filing of a chargesheet in criminal proceedings by the police authorities is sufficient, at least in the absence of any compelling evidence to the contrary, to lead to a finding of negligence against the driver of the offending vehicle, in claim proceedings before the Tribunal. The Supreme Court has emphasised time and again, that proceedings before the Tribunal are not governed by strict rules of pleadings and evidence and are to be decided on the basis of preponderance of probabilities. In *Anita Sharma v. New India Assurance Company Limited*⁴, this aspect has been emphasised as follows:

“21. Equally, we are concerned over the failure of the High Court to be cognizant of the fact that strict principles of evidence and standards of proof like in a criminal trial are inapplicable in MACT claim cases. The standard of proof in such like matters is one of preponderance of probabilities, rather than beyond reasonable doubt. One needs to be mindful that the approach and role of courts while examining evidence in accident claim cases ought not to be to find fault with non-

³ Emphasis supplied.

⁴ (2021) 1 SCC 171.



examination of some best eyewitnesses, as may happen in a criminal trial; but, instead should be only to analyse the material placed on record by the parties to ascertain whether the claimant's version is more likely than not true.”

14. The particular significance of a chargesheet having been filed in criminal proceedings, has been reiterated in a catena of decisions including *Mangla Ram v. Oriental Insurance Company Limited*⁵, *Ranjeet v. Abdul Kayam Neb*⁶, and *Meera Bai v. ICICI Lombard General Insurance Company Limited*⁷. In *Abdul Kayam*, the Supreme Court held as follows:

“4. It is settled in law that once a charge sheet has been filed and the driver has been held negligent, no further evidence is required to prove that the bus was being negligently driven by the bus driver. Even if the eyewitnesses are not examined, that will not be fatal to prove the death of the deceased due to negligence of the bus driver.”

15. In my view, the present case is covered by the said authorities. The finding of the Tribunal against the appellant on the question of negligence was based upon the testimony of the claimant [PW-1], which remained unshaken in cross-examination. The Tribunal also noted that the appellant did not lead any evidence with regard to the circumstances of the accident. There was thus no reason to disregard the filing of a chargesheet against the appellant.

16. In these circumstances, the contentions of the appellant, against the finding of negligence on his part, or contributory negligence on the part of the claimant, are rejected.

E. RE: RECOVERY RIGHTS

17. As far as the second ground is concerned, with regard to the grant

⁵ (2018) 5 SCC 656, paragraph 27.

⁶ 2025 SCC OnLine SC 497 [hereinafter, “*Abdul Kayam*”].



of recovery rights to the Insurance Company against the appellant, the Tribunal has held as follows:

“52. Advocate Sh. Shyam Singh for National Insurance Co. Ltd. has adverted to testimony of R2W1 Sh. Raj Kumar Rana disputing liability to pay compensation in the absence of valid & effective license to drive Heavy Commercial Vehicle (Tanker) on the ground of violation of terms and conditions of the policy referred as Ex.R2W1/1 and relied upon DAR Ex.PW-1/1 (Colly.) filed along with Final Report for offences under section 279/338 IPC & 3/181 of M.V. Act.

53. R1/Yogesh Yadav being Principal Tortfeasor driving offending Water Tanker No. HR-55K-7128 is liable to pay the compensation amount along with interest. However, since offending Water Tanker No. HR-55K-7128 was insured against Third Party Risk so, R2/National Insurance Co. Ltd. being statutorily liable under Section 149(1) of M. V. Act shall pay award amount along with interest to injured with liberty to recover the same from R1/Yogesh Yadav (driver-cum-owner) who was not holding valid license to drive Heavy Commercial Vehicle (Tanker) on the date of accident.

*54. **FINDING : Issue No.2** is decided accordingly by holding that R2/National Insurance Co. Ltd. will pay the award amount with interest and shall be entitled to recover the same from R1/Yogesh Yadav (driver-cum-owner).”⁸*

18. The insurance policy was placed on record before the Tribunal as R2W-1/1, as was the appellant’s driving license, which formed part of the DAR. It is the accepted position that the appellant did not possess a valid driving license for driving heavy motor vehicles. The Tribunal was, therefore, correct in coming to the conclusion that this constituted a breach of the policy conditions, rendering the Insurance Company entitled to recover the compensation amount from the appellant.

F. CONCLUSION

19. For the aforesaid reasons, I find no merit in either of the contentions urged by the appellant.

⁷ 2025 SCC OnLine SC 992, paragraph 4.

⁸ Emphasis supplied.



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20. The appeal, alongwith pending applications, is accordingly dismissed.

21. The statutory deposit, if any, be refunded to the appellant.

PRATEEK JALAN, J

DECEMBER 12, 2025

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