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

% ***Reserved on: 14th January 2026***

Pronounced on: 10th March 2026

Uploaded on : 11th March 2026.

\+ **MAC.APP. 709/2018**

JANKI & ANR .....Appellants

Through: Mr. S.N. Parashar and Mr. Ritik Singh, Advocates.

versus

TARIF MOHD & ORS (THE NEW INDA ASSURANCE CO LTD) .....Respondents

Through: Mr. Ravinder Singh and Ms. Raveesha Gupta, Advocates for R-3

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

ANISH DAYAL, J.

1. This appeal has been filed under Section 173 Motor Vehicle Act, 1988 ('***MV Act***') by claimants (*parents of the deceased*) assailing the judgment dated 02nd April 2018 passed by the Motor Accidents Claims Tribunal in MACT No.14749/2015 dismissing the claim petition.

The Incident

2. On 16th May 2014, *Ish Narayan @ Nar Singh Narayan* along with his cousin brother *Vijay Kumar* was coming to Delhi from *Hodal, Palwal, Haryana* by Maruti Van bearing no. HR-10D-6922, driven allegedly at normal speed and on correct side of the road.

3. When the Maruti Van/ ambulance reached near *Mundkati Chowk, P.S. Hodal*, a truck bearing no. HR-38T-1232, driven by *Tarif Mohd*/ respondent no.1 at a very high speed, rashly and negligently in a zig zag manner, over took the Maruti Van from its right side, and took a sharp turn towards its left side, without any indication, after changing lane, and then applied sharp brake. Maruti Van/ambulance struck the truck from the backside as a result of which *Ish Narayan* sustained grievous head injuries. He was taken to hospital where he was declared '*brought dead*'. Claim was filed by the parents of the deceased under Section 166 and 140 MV Act. Written statement was filed by the driver, *Sanjiv Singh,* owner and the Insurance Company. Insurance Company claimed that the petition was not maintainable.

Impugned Award

4. It was contended by the driver, owner and the Insurance Company that the petition was liable to be dismissed as the claimants failed to prove any negligence of driver. It was argued that the truck did not hit the Maruti Van, rather Maruti Van had hit the truck and driver was not responsible for the accident. The said argument was sustained in view of contents of the FIR. Even otherwise, if testimonies of witnesses are considered along with materials on record, FIR, charge-sheet, *post mortem* report, no negligence of driver was proved.

5. The impugned award first relied upon FIR which presented that the truck was going ahead of the Maruti Van, it applied brakes and Maruti Van coming from behind, hit the truck. **PW-1**, *Ms. Janki* was not an eyewitness of the accident and **PW-2**, *Vijay Kumar*, was examined as an eyewitness

who during his cross examination admitted that the Maruti Van/ambulance struck the truck from its back. The MACT, therefore, concluded in *paragraph 13* of the impugned award that from the material on record and from the testimony of witnesses, it is proved that the respondent no. 1 is not responsible for rash and negligent driving. Reliance was placed on ***Prasanna v. Kerala State Road Transport Corporation.***, 2009 ACJ 2719 stating that the vehicle following another vehicle should take into account the eventuality of the vehicle coming to stop abruptly. MACT also did not rule on grant of recovery rights in favour of Insurance Company since the liability was not established in any event.

Submissions on behalf of appellants

6. *Mr. S.N. Parashar*, counsel for claimants/ appellants placed the following arguments:

(i) *Firstly*, **PW-2**/ *Vijay Kumar,* who was an eyewitness, stated in his evidence by way of affidavit that on 16th May 2014, he along with *Ish Narayan*, his cousin brother, were coming in a Maruti Van / ambulance, when the truck (*offending vehicle*), driven by its *Tarif Mohammad*/ respondent no.1, violated traffic rules, drove in a zig zag manner and overtook Maruti Van from its left side, took a sharp turn, without any indication/ horn, and applied bakes due to which Maruti van struck the truck. On this basis, he stated that the accident was caused due to rash and negligent driving of respondent no.1/ driver of the truck and the accident could have been averted. On this basis, *Mr. Prashar* contended that, at best, it could be a case of contributory negligence, but the MACT

could not have dismissed the liability completely.

(ii) *Secondly*, reliance was placed on the FIR, where statement of **PW2**/ *Vijay Kumar* was recorded stating that the truck overtook the Maruti Van and suddenly applied the brake without any dipper as a result of which, *Ish Narayan*, who was driving the car, could not control the car and hit the truck and sustained injuries. On this basis, appellants' counsel claims that FIR also recorded the factum of sudden applying of brakes and same could not have been ignored by the Tribunal.

(iii) *Thirdly*, reliance was placed on charge-sheet which replicated the FIR and recorded the same facts and circumstances and recording that there was sudden applying of brakes, without any indication by the truck.

(iv) *Fourthly*, appellants' counsel contended that respondent no.1, the driver had never appeared before MACT and hence, there was no opportunity to examine him and this ought to have been accounted for by the MACT.

Submissions on behalf of Insurance Company

7. *Mr. Ravinder Singh*, counsel appearing for Insurance Company drew Court's attention to *paragraph nos. 10, 11 and 12* of the impugned award to contend as follows:

(i) *Firstly*, this assessment was untenable since there could have been no negligence, considering the vehicle which was being driven at the back ought to have been cautious.

(ii) *Secondly*, it is stated that acquittal had been obtained in the

criminal case by judgment dated 9th November 2016 passed by the Sub Divisional Judicial Magistrate, Hodal. Reliance was placed on the judgment to state that since there was no evidence to connect the accused with the charges framed, the accused was entitled for benefit of doubt and therefore, same is of importance considering the FIR and charge-sheet has been relied upon by counsel for appellant.

(iii) Reliance was placed on ***Prasanna*** (*supra*) where the Kerela High Court had opined that driver in front cannot be blamed for negligence even if he stops the vehicle abruptly.

(iv) Reliance was also placed on Supreme Court's decision in ***Lacchu Ram & Others v. Himachal Road Transport Corporation*** (2014) 13 SCC 254, wherein principle of preponderance of probabilities was applied and it was stated that mere involvement of a vehicle in an accident cannot make driver liable unless the material on record shows that accident had occurred due to the rash and negligent driving of the driver.

Analysis

8. Considering the submissions of the parties, in the context of facts and circumstances, it may be apposite to first consider the pronouncements of Supreme Court and other Courts in relation to rear collisions, which occur allegedly due to sudden braking of vehicle in front. The following decisions are being considered:

8.1. ***Prasanna*** (*supra*), the Kerala High Court was dealing with an accident where the Kerala State Road Transport Corporation ('***K.S.R.T.C***')

bus applied sudden brake without indication to the school bus that was following it and hit the school bus wherein the appellant was travelling, resulting in injuries to appellant. The case rested on police case that was filed. MACT did not accept negligence on part of K.S.R.T.C bus driver. The Kerala High Court was of the view that police case instituted is tenable. It was stated that it was clear that accident occurred on account of fact that school bus following the K.S.R.T.C bus had hit it from behind. Applying sudden brakes by K.S.R.T.C driver was considered as reason for the accident, and police had assumed that driver applying sudden brakes should do so after giving any indication or signal to the vehicle following it. The High Court stated as under:

> "*We are unable to accept this proposition because application of brake suddenly is a reflex action and is not a premeditated thing done after giving indication or after giving signal to the vehicle following. Moreover, a vehicle following another vehicle should take into account the eventuality of the vehicle going in its front stopping abruptly which may be for large number of reasons such as a person or animal jumping in front of it or another vehicle interfering in its way or even a sudden obstacle appearing in the road. In all such eventualities any moving vehicle will stop abruptly and the driver applies break suddenly without any premeditation and it is more in the nature of a reflex action than a pre-meditated act to stop the vehicle. No such driver can be blamed for negligence or rash driving and the allegation of the Police in this case against the KSRTC driver is thoroughly absurd. In fact, every vehicle following another should keep a clearance so that in the event of the vehicle going in*

front stopping abruptly, the vehicle following should be in a position to stop without hitting the back of the vehicle stopping abruptly in front. In this view of the matter, we do not accept the stand that the accident is on account of want of care by the driver of the school bus which hit the KSRTC bus from behind. Consequently, MACT rightly rejected appellants claim for compensation against KSRTC. Even though counsel for the appellant pointed out the injuries and grievance of the appellant and sought a remand of the matter to the MACT, we are unable to accept this contention because an entirely new claim, if at all tenable, has to be raised by the appellant against the driver, owner and insurer of the school bus and cannot be done by impleading or amending the petition which was squarely directed against the KSRTC. We, therefore, leave it open to the appellant to prefer any claim petition against driver, owner and insurer of the school bus. Appeal is dismissed with the above observation. There will be direction to the MACT to release the original documents to the appellant within two weeks from date of production of this judgment along with an undertaking by the appellant that this judgment is accepted and no further appeal will be filed against the same."

(emphasis supplied)

8.2. ***Nishan Singh v. Oriental Insurance Co. Ltd.,*** (2018) 6 SCC 765, the facts in consideration were about injured having driven in a Maruti car which had dashed against a truck running ahead of it, who had suddenly applied brakes. One of the injured persons had succumbed to her injuries; FIR was registered, claim petition was filed and reliance was placed on

charge-sheet filed by police. The claim was resisted stating that there was negligence of Maruti car's driver. The Tribunal held that accident occurred due to rash and negligent driving of driver of Maruti car and insurer was therefore not liable. Matter went in appeal before the High Court where it was dismissed finding Tribunal's finding as sufficient. The appellant before Supreme Court challenged the finding that accident occurred due to rash and negligent driving of driver of Maruti car and there was contributory negligence of truck driver, as well.

8.3. The Supreme Court after assessing findings of the Tribunal stated that car which was following the truck was expected to maintain safe distance as envisaged in *Rules of Road Regulations, 1989*. In this respect the following was stated by the Supreme Court:

> "*10…. It is unfathomable that on such a narrow rod, the subject truck would move at a high speed as alleged. In any case, the Maruti car which was following the truck was expected to maintain a safe distance, as envisaged in Regulation 23 of the Rules of the Road Regulations, 1989. which reads thus:*
>
> > *"23. Distance from vehicles in front. The driver of a motor vehicle moving behind another vehicle shall keep at a sufficient distance from that other vehicle to avoid collision if the vehicle in front should suddenly slow down or stop."*
>
> *The expression 'sufficient distance' has not been defined in the Regulations or elsewhere. The thumb rule of sufficient distance is at least a safe distance of two to three seconds gap in ideal conditions to avert collision and to allow the following driver time to respond. The distance of 10–15 feet between the truck and maruti car was certainly not a safe distance for which the driver of the maruti car must take the blame. It must necessarily follow that the finding on the*

issue under consideration ought to be against the claimants.

11. The Tribunal also noted that there was no evidence on record to indicate that the driver of the truck suddenly applied his brake in the middle of the road. Further, the finding on issue No.1 recorded by the Tribunal is that there was no evidence regarding exact place of occurrence of accident and having taken survey. Therefore, the issue under consideration was answered against the appellants (claimants), namely, that the subject truck was not driven rashly and negligently by the truck driver nor had he brought the truck in the centre of the road at right side or applied sudden brake as being the cause of the accident. Being a concurrent finding of fact and a possible view, needs no interference."

(emphasis supplied)

8.4. The Supreme Court then looked at the issue of contributory negligence of the truck driver who was driving in front and noted as under:

"*12. The next question is whether the Tribunal should have at least answered the issue of contributory negligence of the truck driver in favour of the appellants (claimants). The question of contributory negligence would arise when both parties are involved in the accident due to rash and negligent driving. In a case such as the present one, when the Maruti car was following the truck and no fault can be attributed to the truck driver, the blame must rest on the driver of the maruti car for having driven his vehicle rashly and negligently. The High Court has justly taken note of the fact that the driver and owner of the maruti car, as well as insurer of that vehicle, had not been impleaded as parties to the claim petition. The Tribunal has also taken note of the fact that in all probability, the driver and owner of the maruti car were not made party being close relatives of the appellants. In such a situation, the issue of contributory*

negligence cannot be taken forward."

(emphasis supplied)

8.5. Despite having dismissed the issue of contributory negligence and not displacing lack of proof of evidence, the Supreme Court however, stated that the Tribunal could have been advised to invoke Section 140 MV Act providing for no fault liability and in that regard stated as under:

> "*13. However, even in such a case, the Tribunal could have been well advised to invoke Section 140 of the Motor Vehicles Act, 1988, (for short "the Act") providing for liability of the owner of the vehicle (subject truck) involved in the accident. It is a well settled position that fastening liability under Section 140 of the Act on the owner of the vehicle is regardless of the fact that the subject vehicle was not driven rashly and negligently. We may usefully refer to the decisions in Indra Devi and others Vs. Bagada Ram and another and Eshwarappa alias Maheshwarappa and Another Vs. C.S. Gurushanthappa and Another2, which are directly on the point.*
>
> *14. Accordingly, even though the appeal fails insofar as claim petition under Section 166 of the Act, for the appellants having failed to substantiate the factum of rash and negligent driving by the driver of the subject truck, the appellants must succeed in this appeal to the limited extent of relief under Section 140 of the Act. We have no hesitation in moulding the relief on that basis.*
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> *15. For the reasons mentioned above, this appeal is partly allowed. The appellants are granted limited relief under Section 140 of the Act. The respondent Nos.2 and 3 are made jointly and severally liable to pay a sum of Rs.50,000/- (Rupees Fifty Thousand Only) to the appellants towards compensation under Section 140 of the Act, on account of the death of Balvinder Kaur in the accident*

which occurred on 28th November, 2010, along with interest at the rate of 9% from the date of filing of the claim petition till realization."

(emphasis supplied)

9. As far as reliance on FIR and charge-sheet is concerned, though it is only a preliminary consideration, the evidence ultimately in a trial has to reach a certain conclusion. In this case, decision of Sub Divisional Judicial Magistrate, Hodal of 9th November 2016, has resulted in acquittal of driver. Before the Trial Court, complainant *Vijay Kumar* was examined and in his cross examination he admitted that the accident happened at night.

10. In the judgment of the criminal court, it is noted that *Vijay Kumar* was examined as **PW-1** who deposed that he was sitting at back in the Maruti van /ambulance while his cousin was driving the same and the truck driver suddenly applied the brakes due to which ambulance hit the truck. He deposed that he did not remember the number of truck but had made complaint to the police, which he identified. On deposing that he did not want to say anything, the public prosecutor requested for declaring **PW-1** as hostile witness and be allowed to be cross examined.

11. In his cross examination, **PW-1** admitted that he had mentioned the truck number but volunteered that it was night and was not sure. He further stated that after the accident, the truck driver came to him, but on seeing the crowd, he fled. He denied relevant portion of his earlier statement made to the police. On this basis, since there was nothing incriminating against the accused, statement under *Section 313 Code of Criminal Procedure, 1973*. was dispensed with. The view taken by the criminal court was that the prosecution had failed to link the accused with commission of offence

beyond reasonable doubt. **PW-1** had become hostile and **PW-2**, *Amit*, who identified dead body of his brother, was a formal witness. No other witness had been examined by the prosecution and there as no evidence therefore accused was entitled for benefit of doubt.

Conclusion

12. The claim petition in the present case has been instituted under Section 166 of the MV Act, which postulates fault liability. Consequently, the initial burden squarely lay upon appellants to establish that the accident occurred due to rash and negligent driving of truck driver. This burden was required to be discharged on the touchstone of preponderance of probabilities, as consistently held by the Supreme Court.

13. The standard of proof applicable in such proceedings has been explained by the Supreme Court in ***M. Siddiq (D) Thr. LRs. v. Mahant Suresh Das & Ors.*** 2019 SCC OnLine SC 1440, wherein the Court, relying upon *Phipson on Evidence* and *Lord Denning's* observations in ***Miller v. Minister of Pensions*** (1947) 2 All ER 372, held that burden of proof of a party is discharged only if the evidence renders its version more probable than not. When probabilities are evenly balanced, burden cannot be said to be discharged. Applying this principle to the present case, the evidence led by appellants does not cross the threshold of probability so as to fasten liability upon the truck driver.

14. Appellants primarily relied upon the FIR, charge-sheet and testimony and cross examination of **PW2** *Vijay Kumar,* to establish negligence. However, these are bereft of material particulars necessary to determine fault, such as the width of the road, lighting conditions, relative

speed of the vehicles, or the distance maintained between them.

15. The FIR and chargesheet merely reflect the initial version of **PW-2***/Vijay Kumar* and do not constitute substantive evidence of negligence. In the absence of corroborative material, when the FIR and charge-sheet are contested, by themselves, cannot be treated as conclusive proof of negligence.

16. In the criminal proceedings it was admitted by *Vijay Kumar (PW1 therein)* that the accident occurred at night and that he was seated at the rear of the Maruti Van/ambulance while his cousin was driving. These critical facts find no mention in the FIR or the charge-sheet. Further, his cross-examination before the criminal court revealed material inconsistencies, and he was declared hostile. Though acquittal in criminal proceedings is not determinative in motor accident claims, such proceedings cannot be altogether ignored when they shed light on the reliability of the very evidence relied upon in the claim petition. The cross examination of *Vijay Kumar* in criminal proceedings cast doubt on the reliability of his testimony, FIR and chargesheet.

17. Appellant, having asserted rash and negligent driving by truck driver had to prove the same based on preponderance of probabilities. The Tribunal, upon appreciation of the material on record, rightly concluded that appellants failed to prove that the accident occurred due to the rash and negligent driving of truck driver. This Court finds no legal infirmity in the said finding.

18. In this factual backdrop, the plea of contributory negligence raised by appellants is also untenable. Contributory negligence presupposes proof of negligence on the part of both drivers. In the absence of any cogent

evidence establishing negligence of the truck driver in the first place, the question of apportionment of liability does not arise.

19. The Supreme Court in *Nishan Singh (supra)* has categorically held that in cases of rear-end collisions, the vehicle following from behind is under a statutory duty, as per *Regulation 23 of the Rules of the Road Regulations, 1989*, to maintain sufficient distance to avoid collision even if the vehicle in front suddenly slows down or stops.

20. In the present case, it is an admitted position that the Maruti Van struck the truck from behind. There is no evidence on record regarding speed of the truck or the Maruti car or the distance between both the cars. The mere allegation of sudden braking, without substantiating circumstances, is insufficient to establish negligence. The Maruti Van failed to maintain safe distance from the truck especially during night time where there can be low visibility, in that eventuality when the vehicle in front applied sudden brake Maruti Van collided with the vehicle causing rear collision. Therefore, as per law laid down in ***Nishan Singh*** *(supra)* and ***Prassana*** *(supra)*, application of sudden brakes is often a reflex action necessitated by road conditions, and truck driver, driving in front cannot be faulted on that ground alone.

21. In view of the foregoing discussion and having analysed the evidence in light of the settled jurisprudence governing rear-end collisions, this Court holds that appellants have failed to establish negligence even on the touchstone of preponderance of probabilities.

22. The impugned award, therefore, warrants no interference.

23. Notwithstanding the claim under Section 166 of the MV Act, this Court is of the view that appellants are entitled to limited relief under

Section 140 of the Act on the principle of no-fault liability. The Supreme Court in *Nishan Singh (supra)* has expressly held that even where negligence is not proved under Section 166 MV Act, court would be justified in moulding the relief under Section 140 of MV Act. In these circumstances, and in order to advance the beneficial object of the legislation, this Court deems it appropriate to award compensation under Section 140 of MV Act. Accordingly, owner of the offending vehicle is held liable to pay a sum of *Rs. 50,000/-* to appellants towards compensation for death on no-fault basis, along with interest at the rate of *9%* per annum from the date of filing of the claim petition till the date of realization.

24. Judgment be uploaded on the website of this court.

(ANISH DAYAL)
JUDGE

MARCH 10, 2026/*sm/zb*