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

% ***Reserved on : 12th January 2026***
Pronounced on : 10th March 2026
Uploaded on : 11th March 2026

\+ **MAC.APP. 511/2014 & CM APPL. 41990-41991/2023**

ORIENTAL INSURANCE COMPANY LTD .....Appellant

Through: Ms. Shruti Jain, Advocate.

versus

RAJWATI & ORS .....Respondents

Through: Mr A.K Mishra and Malkeet Singh, Advocates for R-2.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

ANISH DAYAL, J.

1. This appeal has been preferred against the impugned judgment dated 18th February 2014 passed Motor Accident Claims Tribunal, Saket Courts, Delhi (‘***MACT***’), in Regn No./Case no. 200/14/06-I, whereby the Tribunal awarded *Rs.8,30,244/-* along with interest @ *9%* per annum from the date of filing.

The Incident

2. Motor vehicles accident took place on 31st December 2005, at about 7:30 AM, when *Smt. Rajwati* was crossing road to board the bus near *Ali Mor, Mathur Road,* when one truck bearing registration no. HR 38 L-0049

driven by *Sh. Dharambir* came from *Badarpur side* and hit respondent no. 1/ claimant and the right leg came underneath the front wheel of the truck leading to crush injuries. Petitioner was taken to AIIMS hospital and referred to Safdarjung Hospital, petitioner's right leg was amputated from below the knee, rendering her disabled.

Impugned Award

3. A claim petition was filed before the MACT seeking compensation of *Rs. 18,10,000/-* on various counts. On basis of the pleadings following issues were framed by the MACT:

> *(i) Whether petitioner suffered injuries in an accident which took place on 31st December 2005 at about 7:30 AM involving truck bearing No. HR 38L 0049 due to rash and negligent driving of respondent no.1, owned by respondent no. 2 and insured with respondent no. 3?*
>
> *(ii) Whether petitioner is entitled to compensation? If so, to what amount and against which of the respondents?*
>
> *(iii) Relief.*

4. *Issue no. 1* was decided in favour of claimant, as the testimony was unrebutted and there was no material on record to disbelieve the version canvassed by claimant. Further, registration of criminal case against the driver of offending vehicle was considered enough to record finding that the driver of the offending vehicle is responsible for causing accident.

5. As regards *Issue no. 2*, in the Medico-Legal Certificate (*MLC*) the injuries were described as *crush injuries with partial amputation of leg and bone and muscles exposed*, as per the medical record it was established at

there was *guillotine amputation* in respect to the right leg below the knee the same is evidenced from Discharge Slip dated 02nd February 2006, issued by Safdarjung Hospital/ **Exhibit PW1/4**.

6. The Disability Certificate at **Exhibit PW1/23** issued by Medical Board, Safdarjung Hospital New Delhi and the disability was therein recorded as *60%* permanent physical impairment in relation to right lower limb.

7. Claimant asserted that she was a maid and was earning *Rs. 5,000/-* however there was no documentary proof and no one was examined to prove employment or skill, therefore the Tribunal took the income of claimant, in absence of income and education proof, as minimum wages payable to unskilled worker for NCT of Delhi at the relevant time i.e. *Rs.3,165/-* per month; therefore the annual income was assessed to be *Rs. 37,980/-*.

8. On the issue of functional disability the Tribunal noted that "*an unskilled person has to earn livelihood using all his limbs to the best of efficiency and any deficiency, inflicted upon any of these four limbs renders him as vulnerable of losing his earning capacity*". Thus, the functional disability was taken to be *60%* as claimant could not walk without support, bear weight or work, considering that claimant assets to have been employed as maid.

9. Considering the age of claimant at the time of accident was between 46-50 years, multiplier was taken as 13. Accordingly, loss of future income was calculated as *Rs.22,788-* (*60% of the annual income of Rs.37,980*), multiplied with relevant multiplier of 13, resulting in *Rs.2,96,244/-* calculated as *loss of future income*.

10. Under the remaining heads of compensation, the Tribunal awarded a sum of *Rs.4,000/-* towards *medical expenses*, taking note of the fact that petitioner had availed treatment from a Government Hospital. A further sum of *Rs.10,000/-* was awarded towards *conveyance charges* and *Rs.20,000/-* towards *special diet*, considering the prolonged treatment and follow-up necessitated by the below-knee amputation.

11. The Tribunal also granted *Rs.1,50,000/-* towards *attendant charges*, keeping in view the permanent disability and lifelong requirement of assistance. In addition thereto, *Rs.1,50,000/-* was awarded towards *pain and suffering*, *Rs.50,000/-* towards loss of *amenities and enjoyment of life*, and *Rs.50,000/-* on account of *disfigurement*. An amount of *Rs.1,00,000/-* was further awarded towards future treatment and prosthetics.

12. As regards liability, Tribunal held that the driving license of the driver was duly proved and could not be treated as fake or invalid. However, it was found that the offending vehicle did not possess a valid permit at the time of the accident, as the owner failed to produce the same despite service of notice under Order XII Rule 8 Code of Civil Procedure, 1908. This constituted a breach of the terms and conditions of the insurance policy attributable to the owner. Nevertheless, liability of the insurer towards an innocent third-party victim provided *under Section 149(2)(a) of Motor Vehicle Act*, *1988* ('***MV Act***') the Insurance Company was directed to satisfy the Award in the first instance, with liberty to recover the awarded amount from the owner of the offending vehicle for not having obtained valid permit.

<u>Submission of Counsel for Appellant</u>

13. *Ms. Shruti Jain*, counsel for appellant assailed the impugned award on the following grounds:

(i) That the Disability Certificate was not furnished and the same was not proved on record by examining member of disability board and thus Tribunal has wrongly relied on the same.

(ii) There was no employment record therefore, no future loss of income should be awarded.

(iii) The amount of *Rs.1,50,000/-* awarded for pain and suffering is excessive should accordingly be reduced.

(iv) Tribunal erred in law in fastening liability upon the Insurance Company to satisfy the award even at the first instance despite granting recovery right, in view of clear evidence that the offending vehicle was being plied without a valid permit. It is submitted that plying of a vehicle without a permit constitutes a fundamental statutory violation, attracting the defence available to the insurer under Section *149(2) of the MV Act*. Therefore, instead of right to recovery being granted, the insurance company should have been exonerated from paying compensation in first instance.

<u>Submissions of Counsel for Respondent</u>

14. In response, counsel for respondent no.1/ claimant contended the following:

(i) Income of the petitioner was calculated on minimum wages of unskilled worker, as she was working as a maid and could not produce any documentary evidence.

(ii) Right to recovery has already been awarded to the insurance company as is evident from *paragraph 31* under the impugned Award, there can be no exoneration of insurance company from liability to pay compensation even in case of breach of policy.

Analysis

15. Considering that there is no issue raised with respect to the finding by the MACT on issue *no.1* relating causation, the only issues in dispute, relate to the compensation.

Minimum Wages

16. The *first* issue which has been raised is with regard to taking the benchmark income as minimum wages payable to an unskilled worker for National Capital Territory of Delhi, considering there was no documentary proof and no one was examined to prove the employment. The assertion of the Insurance Company in this regard is completely untenable, considering that the courts have consistently held that if there is no documentary proof, minimum wages notifications can be acted upon. Reference in this regard can be made to the Supreme Court Judgment in ***Jitendra v. Sadiya & Ors.*** 2025 INSC 166. The relevant paragraph is extracted below:

> "*10. We have heard the learned counsel for the Appellant. We are unable to agree with the view taken by the Tribunal and High Court on the income of the Appellant and the functional disability suffered by him. At the outset, we must refer to the exposition of this Court in Gurpreet Kaur and Ors. v. United India*

Insurance Company Ltd. and Ors., wherein it was stated the notifications under the Minimum Wages Act can be a guiding factor in cases where there is no evidence available to evaluate monthly income."

(emphasis supplied)

17. Considering that the benchmark income has been considered as minimum wages for an unskilled worker, there is no reason why *loss of future income* should not be granted since it is a critical part of awarding compensation to an injured/claimant. In any event, in a case of amputation, there cannot be an argument that the capacity of injured/claimant to earn in the future would not be affected. On the contrary, there would be huge impact on her working to earn livelihood and she would have very restricted opportunities in which she would be able to work. Reliance can be placed on the judgment of Supreme Court in ***Mohd. Sabeer v. U.P. SRTC***, (2023) 20 SCC 774 wherein the Supreme Court in a similar situation of amputation below knee granted *future prospect @ 40%* and noted as regards loss of future income as under:

> "*17. It is a well-settled position of law that in cases of permanent disablement caused by a motor accident, the claimant is entitled to not just future loss of income, but also future prospects. It has been reiterated by this Court in multiple instances that "just compensation" must be interpreted in such a manner as to place the claimant in the same position as he was before the accident took place.*"

18. In light of observation of Supreme Court, the assertion on behalf of the Insurance Company, as regards *loss of future income,* is untenable and, therefore rejected.

Evidence to Assess Functional Disability

19. The *second* issue which is raised by the Insurance Company relates to the Disability Certificate issued by the Medical Board, Safdarjung Hospital, wherein the disability was recorded at *60%*. The Disability Certificate was exhibited as **PW-1/23** though no one from the Medical Board was produced to prove the same.

20. **PW-1** (*injured/claimant*), in her evidence by way of affidavit, stated that due to amputation, she became handicapped and is totally dependent upon others. The permanent Disability Certificate is exhibited as **PW-1/23**. In her cross-examination, a suggestion was put to her that the document (**PW-1/23**) was false, which she denied. The Court, having perused the said Disability Certificate, finds that it has been issued on 31st March 2006 by the Office of the Medical Superintendent, Safdarjung Hospital with due signatures and seal of each of the members of the Medical Board. It has been further counter-endorsed by the Additional Medical Superintendent, Safdarjung Hospital with the signature and seal, and contains the photograph of the injured as well. The same is extracted as under for reference:

S.J.H. (M.R.D.) No.-7

भारत सरकार
GOVERNMENT OF INIDA
चिकित्सा अधीक्षक का कार्यालय
OFFICE OF THE MEDICAL SUPERINTENDENT
सफदरजंग अस्पताल, नई दिल्ली-110029
SAFDARJANG HOSPITAL, NEW DELHI-110029

31.3.06

MEDICO LEGAL CASE

No. 2-21/06-MR/171

Dated 31.3.06

विकलांगता प्रमाण-पत्र
DISABILITY CERTIFICATE

"THIS CERTIFICATE IS VALID FOR MEDICO-LEGAL CASES"

This is to certify that XX/Smt. XX RAJWATI

W/o Shri BHOPAL SINGH Age 40Years/FEMALE Years

Female O.P.D. No. R-272/06

is a case of RIGHT BELOW KNEE AMPUTATION.

is physically handicapped and has 60% (SIXTY PERCENT) permanent physical impairment in relation to RIGHT LOWER LIMB.

NOTE IF ANY: NIL

(DR. S.Y. KOTHARI) (Dr. M. LAISRAM) (Dr. R. SHARMA)

CHAIRMAN

COUNTERSIGNED

DR. R. SHARMA
Sr. Specialist (PMR)
Rehabilitation Department
Safdarjang Hospital
New Delhi

Sig./Thumb Impression of the Patient

ADDL. MEDICAL SUPDT
for Medical Supdt.

Ex PW1/23
Judge MACT
21/7/08

(Original Seen & Return)

21. There is no reason for this Court to disbelieve the said certificate. Where there is no testimony in support of a Disability Certificate issued by an authorized entity, it is for the Court to assess and accept the same, and not to dismiss it summarily. As regards disability certificate, the Supreme Court *vide* order dated 16th November 2021 in W.P.(C) 543/2020 passed the following direction:

> "*(iv) As far as the aspect of the issuance of certificate on disability of victims is concerned, it is reiterated that the guidelines laid down by this Court in Raj Kumar v. Ajay*

> *Kumar and Anr., (2011) 1 SCC 343 mandatorily must be followed by the MACTs, in respect of loss of income due to injury/disablement. The District Medical Board is also directed to follow the guidelines issued by the Ministry of Social Justice and Empowerment, Government of India vide Gazette Notification S. No. 61, dated 05.01.2018, for issuance of disability Certificate in order to bring Pan India uniformity. The consequence is that the MACT would ascertain that permanent disability certificate issued by the District Medical Board or body authorized by it is in accordance with the Gazette Notification alone. Once the certificate is issued in this manner, the same can be marked for purposes of being taken into consideration as evidence without the necessity of summoning the concerned witness to give formal proof of the documents unless there is some reason for suspicion on the document;*"
>
> (emphasis supplied)

22. Additionally, reference may be made to Supreme Court order dated 16th October 2025 in Special Leave Petition (Civil) 15621/2025 titled as "***S. Ettiappan v. D. Kumar & Anr.***" wherein the Court was dealing with physical disability assessed by the doctors at *70%,* and the Tribunal had substituted its view to arrive at a conclusion that functional disability was *50%.* The Court stated that the Tribunal could not sit in an armchair of an expert and reassess the disability, particularly when there is clear evidence available and their being no other evidence tendered by the insurer or the insured.

23. In that case, the Supreme Court had considered the functional disability at *100%*. Relevant paragraph of the said judgment is as under:

"*7.1 While assessing the compensation in case of claims arising out of motor vehicle accident, it would be the functional disability which will have to be taken into consideration for award of future loss of income. In the instant case, though the doctors have assessed physical disability to whole body at 70%, the tribunal has substituted its view to that of the experts inspite of there being no contra-material available before it to arrive at a conclusion that functional disability being 50%. This Court has time and again stated that tribunal would not sit in the armchair of an expert and re-assess the disability, particularly, when there is clear evidence available. In the instant case, the disability assessment certificate Exhibit-C1 revealed that appellant had suffered 70% physical disability as certified by the Medical Board. There being no other evidence tendered by the insurer or the insured, the tribunal could not have substituted its view by assessing the disability at 50%. This erroneous view of the tribunal has been rightly set aside by the High Court. However, the High Court while reappreciating the evidence has restricted the whole-body disability at 70% on the basis of Medical Board Certificate (Ex. C-1) without noticing the fact that on account of said disability suffered by the claimant, his functional disability would be 100%. It is not in dispute that appellant was working as a loader who used to discharge his duties of loading and unloading vegetables into the vehicles. This physical or manual activity would require support of both legs or in other words claimant is required to use both the legs for discharging his duties as a loader. By virtue of amputation of his right leg below the knee, he has become immobile or in other words, he is not in a position to discharge his daily routine work as a loader. It is not the case of insurer or insured that claimant was carrying on any other avocation and as such the disability of 70% suffered would not come in the way of his earning. To earn his bread, he had to work by*

> *loading or unloading vegetable into the vehicle which was the only avocation he was carrying on. Now by virtue of amputation of his leg below the knee appellant is not only unable to work as a loader but even unable to stand without support. As such the functional disability requires to be considered at 100% and not 70% as held by High Court.*"
>
> (emphasis supplied)

24. Therefore, there is no reason to disbelieve the Disability Certificate or depart from the assessment of functional disability at *60%,* particularly considering that injured was working as a maid and, therefore, required full mobility in order to earn her livelihood. The MACT rightly observed that she could not walk without support, bear weight, or work, especially in view of the guillotine amputation of her right leg below the knee. There is no reason to modify or reject the finding of the MACT in this regard.

Pain and Suffering

25. The *third issue* concerns the amount of *Rs. 1,50,000/-* awarded towards *pain and suffering*. Reliance may be placed on the judgment of the Supreme Court in ***K.S. Muralidhar v. R. Subbulakshmi and Anr.*** 2024 SCC Online SC 3385, observed that '*pain and suffering*' cannot be captured by any fixed definition, drawing on legal, medical, and philosophical sources to emphasise its deeply subjective and life-altering nature. It recognised that translating such profound human loss into money is an inherently artificial exercise, yet courts must ensure fairness, consistency, and sensitivity to the victim's lifelong deprivation. The Court stressed that in cases of severe or *100%* disability, compensation must meaningfully reflect the permanent rupture in the victim's physical, emotional, and existential well-being.

Relevant paragraphs are extracted as under:

> "***13.*** *While acknowledging that 'pain and suffering', as a concept escapes definition, we may only refer to certain authorities, scholarly as also judicial wherein attempts have been made to set down the contours thereof.*
>
> *13.1 The entry recording the term 'pain and suffering' in P. Ramanatha Iyer's Advanced Law Lexicon*[9] *reads as under:—*
>
> > *"**Pain and suffering.** The term 'Pain and suffering' mean physical discomfort and distress and include mental and emotional trauma for which damages can be recovered in an accident claim.*
> >
> > *This expression has become almost a term of art, used without making fine distinction between pain and suffering. Pain and suffering which a person undergoes cannot be measured in terms of money by any mathematical calculation. Hence the Court awards a sum which is in the nature of a conventional award [Mediana, The, [1900] A.C. 113, 116]"*
>
> ...
>
> *13.5 In determining non-pecuniary damages, the artificial nature of computing compensation has been highlighted in Heil v. Rankin*[16]*, as referred to in Attorney General of St. Helenav. AB*[17] *as under:—*
>
> > *"23. This principle of 'full compensation' applies to pecuniary and non-pecuniary damage alike. But, as Dickson J indicated in the passage cited from his judgment in Andrews v. Grand & Toy Alberta Ltd., 83 DLR (3d) 452, 475-476, this statement immediately raises a problem in a situation where what is in issue is what the appropriate level of 'full compensation' for non-pecuniary injury is when the compensation has to be expressed in pecuniary terms. There is no simple formula for converting the pain and suffering, the loss of function, the loss of*

amenity and disability which an injured person has sustained, into monetary terms. Any process of conversion must be essentially artificial. Lord Pearce expressed it well in H West & Son Ltd. v. Shephard, [1964] A.C. 326 when he said:

> *'The court has to perform the difficult and artificial task of converting into monetary damages the physical injury and deprivation and pain and to give judgment for what it considers to be a reasonable sum. It does not look beyond the judgment to the spending of the damages.'*

24. The last part of this statement is undoubtedly right. The injured person may not even be in a position to enjoy the damages he receives because of the injury which he has sustained. Lord Clyde recognised this in Wells v. Wells, [1999] A.C. 345, 394H when he said:'One clear principle is that what the successful plaintiff will in the event actually do with the award is irrelevant."

…

***14.** In respect of 'pain and suffering' in cases where disability suffered is at 100%, we may notice a few decisions of this Court:—*

14.1 In R.D Hattangadi v. Pest Control (India) (P) Ltd. It was observed:

> *"**17.** The claim under Sl. No. 16 for 'pain and suffering' and for loss of amenities of life under Sl. No. 17, are claims for non-pecuniary loss. The appellant has claimed lump sum amount of Rs. 3,00,000 each under the two heads. The High Court has allowed Rs. 1,00,000 against the claims of Rs. 6,00,000. When compensation is to be awarded for 'pain and suffering' and loss of amenity of life, the special circumstances of the claimant have to be taken into account including his age, the unusual deprivation he has suffered, the effect thereof on his future life. The amount of compensation for*

> *non-pecuniary loss is not easy to determine but the award must reflect that different circumstances have been taken into consideration. According to us, as the appellant was an advocate having good practice in different courts and as because of the accident he has been crippled and can move only on wheelchair, the High Court should have allowed an amount of Rs. 1,50,000 in respect of claim for 'pain and suffering' and Rs. 1,50,000 in respect of loss of amenities of life. We direct payment of Rs. 3,00,000 (Rupees three lakhs only) against the claim of Rs. 6,00,000 under the heads "'pain and suffering'" and "Loss of amenities of life".*
>
> *14.2 This Judgment was recently referred to by this Court in Sidram v. United India Insurance Company Ltd reference was also made to Karnataka SRTC v. Mahadeva Shetty (irrespective of the percentage of disability incurred, the observations are instructive), wherein it was observed:*
>
> *"18. A person not only suffers injuries on account of accident but also suffers in mind and body on account of the accident through out his life and a feeling is developed that his no more a normal man and cannot enjoy the amenities of life as another normal person can. While fixing compensation for pain and suffering as also for loss of amenities, features like his age, marital status and unusual deprivation he has undertaken in his life have to be reckoned..."*
>
> (emphasis added)

26. In light of the observations of the Supreme Court noted above, this Court is of the opinion that, considering this is a case of amputation, there can be no question of diluting the compensation awarded under the head of *pain and suffering*. The Supreme Court has consistently adopted a liberal and realistic approach in such cases, as is evident from the judgment in

Mohd. Sabeer v. U.P. SRTC (*supra*), wherein, in a similar situation involving amputation below the knee, the Supreme Court awarded *Rs. 2,00,000/-* towards pain and suffering. The Supreme Court observed as under:

> "***Non-pecuniary compensation***
> ***24…*** *this Court is of the opinion that the compensation provided by the High Court for non-pecuniary heads is inadequate.*
> ***25.*** *In R.D. Hattangadi v. Pest Control (India) (P) Ltd. [R.D. Hattangadi v. Pest Control (India) (P) Ltd., (1995) 1 SCC 551 : 1995 SCC (Cri) 250] dealing with the different heads of compensation in injury cases this Court held that : (SCC p. 556, para 9)*
>
> > *"9. Broadly speaking while fixing the amount of compensation payable to a victim of an accident, the damages have to be assessed separately as pecuniary damages and special damages. Pecuniary damages are those which the victim has actually incurred and which are capable of being calculated in terms of money; whereas non-pecuniary damages are those which are incapable of being assessed by arithmetical calculations. In order to appreciate two concepts pecuniary damages may include expenses incurred by the claimant : (i) medical attendance; (ii) loss of earning of profit up to the date of trial; (iii) other material loss. So far as non-pecuniary damages are concerned, they may include : (i) damages for mental and physical shock, pain and suffering, already suffered or likely to be suffered in the future; (ii) damages to compensate for the loss of amenities of life which may include a variety of*

> *matters i.e. on account of injury the claimant may not be able to walk, run or sit; (iii) damages for the loss of expectation of life i.e. on account of injury the normal longevity of the person concerned is shortened; (iv) inconvenience, hardship, discomfort, disappointment, frustration and mental stress in life."*

26. *In light of the above decision of this Court and the facts and circumstances of the case at hand, the compensation to be awarded is as follows:*

> *I. Compensation for pain and suffering — Rs 2,00,000*
>
> *II. Compensation for loss of amenities of life — Rs 2,00,000*
>
> *III. Compensation for disability and disfigurement — Rs 2,00,000*

Conclusion

27. *We are of the opinion that while awarding compensation in cases of permanent disability caused to claimants, the courts must look at the case in totality, and must consider the socio-economic background of the claimants. The appellant herein comes from an economically weaker section of the society.*

28. *It is almost universally seen that persons from marginalised backgrounds often face an additional layer of discrimination due to bodily disabilities. This is because persons from marginalised sections of the society already face severe discrimination due to a lack of social capital, and a new disability more often than not compounds to such discrimination. In such circumstances, to preserve the essence of justice, it becomes the duty of the Court to at the very least restore the claimant as best as possible to the position he was in*

> *before the occurrence of the disability, and to do so must award compensation in a liberal manner.*
>
> ***29.*** *While no material compensation can completely negate the trauma and suffering that the injured and his family faces, the law only knows the language of monetary compensation in such cases. It then becomes the duty of the court to translate the provisions of monetary compensation into a fabrication that helps the injured and his family in coping with their loss.*"
>
> (emphasis supplied)

27. Considering the observations of the Supreme Court and the fact that the present case involves amputation, the compensation awarded towards *pain and suffering* cannot be reduced. On the contrary, it must reflect the permanent physical and emotional trauma suffered by the claimant. The award of *Rs.1,50,000/-* under head of *pain and suffering* is therefore justified and warrants no interference.

Pay and Recover

28. With regard to the contention raised by the Insurance Company that the offending vehicle was being plied without a valid permit and, therefore, the Insurance Company ought to have been completely exonerated instead of being granted the right of pay and recover, this Court is of the view that the issue of '*pay and recover*' stands conclusively settled by the Supreme Court in ***National Insurance Co. Ltd. v. Swaran Singh and Ors***. (2004) 3 SCC 297.

29. In ***Swaran Singh*** (*supra*), the Supreme Court emphasised that the right of a road accident victim to claim compensation is a statutory one, rooted in the social welfare object of the MV Act. In that light, the Supreme

Court held that even where the insurer succeeds in establishing a statutory defence under *Section 149(2) of the MV Act*, the liability to satisfy the award *vis-à-vis* the third-party claimant subsists at the first instance, with liberty reserved to the insurer to recover the amount from the insured/owner or driver of the offending vehicle. The Court, after an elaborate consideration of the statutory scheme and prior precedents, reaffirmed that the principle of '*pay and recover*' had consistently held the field and should not be unsettled. Emphasising the need for certainty in the law governing third-party rights, the Court observed as under*:*

> "*104. It is, therefore, evident from the discussions made hereinbefore that the liability of the insurance company to satisfy the decree at the first instance and to recover the awarded amount from the owner or driver thereof has been holding the field for a long time.*
> *105. Apart from the reasons stated hereinbefore, the doctrine of stare decisis persuades us not to deviate from the said principle.*
> *106. It is a well-settled rule of law and should not ordinarily be deviated from. (See Bengal Immunity Co. Ltd. v. State of Bihar [AIR 1955 SC 661 : (1955) 2 SCR 603] , SCR at pp. 630-32, Keshav Mills Co. Ltd. v. CIT [AIR 1965 SC 1636 : (1965) 2 SCR 908] , SCR at pp. 921-22, Union of India v. Raghubir Singh [(1989) 2 SCC 754 : (1989) 3 SCR 316] , SCR at pp. 323, 327, 334, Gannon Dunkerley and Co. v. State of Rajasthan [(1993) 1 SCC 364] , Belgaum Gardeners Coop. Production Supply and Sale Society Ltd. v. State of Karnataka [1993 Supp (1) SCC 96 (1)] and Hanumantappa Krishnappa Mantur v. State of Karnataka [1992 Supp (2) SCC 213 : 1992 SCC (Cri) 667].)*"
>
> (emphasis supplied)

30. Reference can also be made to the decision of Supreme Court in ***National Insurance Co. Ltd. v. Challa Upendra Rao & Ors.*** (2004) 8 SCC 517, wherein the Supreme Court held that even where a breach of policy conditions by insured is established and a statutory defence under *Section 149 of MV Act* is available to insurer, thereby absolving insurer of liability, the insurer may still be directed to satisfy the award in the first instance having regard to the beneficial object of the Act. Accordingly, in order to ensure expeditious compensation to the claimant, the insurer shall pay the awarded amount with liberty to recover the same from the owner/insured in accordance with law. The relevant paragraph is extracted as under:

> "*13. The residual question is what would be the appropriate direction. Considering the beneficial object of the Act, it would be proper for the insurer to satisfy the award, though in law it has no liability. In some cases the insurer has been given the option and liberty to recover the amount from the insured. For the purpose of recovering the amount paid from the owner, the insurer shall not be required to file a suit. It may initiate a proceeding before the executing court concerned as if the dispute between the insurer and the owner was the subject-matter of determination before the Tribunal and the issue is decided against the owner and in favour of the insurer. Before release of the amount to the claimants, owner of the offending vehicle shall furnish security for the entire amount which the insurer will pay to the claimants. The offending vehicle shall be attached, as a part of the security. If necessity arises the executing court shall take assistance of the Regional Transport Authority concerned. The executing court shall pass appropriate orders in accordance with law as to the manner in which the owner of the vehicle shall make payment to the insurer. In case there is any default it shall be open to the executing court to direct*

> *realisation by disposal of the securities to be furnished or from any other property or properties of the owner of the vehicle i.e. the insured. In the instant case, considering the quantum involved, we leave it to the discretion of the insurer to decide whether it would take steps for recovery of the amount from the insured."*
>
> (emphasis supplied)

31. In any event, the Supreme Court in ***Amrit Paul Singh & Anr. v. Tata AIG General Insurance Co. Ltd. & Ors.*** (2018) 7 SCC 558, considered a similar contention where the offending vehicle did not have a valid permit to ply the offending vehicle.

32. In that case, the decision in ***Swaran Singh*** (*supra*) was relied on however, the same dealt with the situation where the driver was not having a valid license. Referring to ***Challa Upendra Rao*** (*supra*), where the issue of absence of permit was directly considered, the Court held that plying a vehicle without a permit constitutes an infraction and may absolve the insurer of statutory liability *qua* the insured.

33. However, in ***Amrit Paul Singh*** (*supra*), the Court, despite recognizing that there was no valid permit to ply the offending vehicle and the liability cannot be attributed on the insurer, nevertheless upheld the direction to pay and recover, observing as under:

> "*24…Therefore, the Tribunal as well as the High Court had directed that the insurer was required to pay the compensation amount to the claimants with interest with the stipulation that the insurer shall be entitled to recover the same from the owner and the driver. The said directions are in consonance with the principles stated in Swaran Singh and other cases pertaining to pay and recover principle.*"
>
> (emphasis supplied)

34. In view of the settled position of law as discussed above, and bearing in mind the beneficial and social welfare object of the MV Act, the MACT rightly directed the Insurance Company to satisfy the award with liberty to recover the same from the owner, as recorded in *paragraph 31* of the impugned award. This Court finds no infirmity in the said finding of the MACT. Accordingly, the ground raised by the Insurance Company seeking complete exoneration is rejected.

<u>*Direction*</u>

35. *Vide* order dated 13th August 2014, this Court stayed the impugned judgment subject to deposit of entire awarded amount with the Registrar General of this Court and *75%* of the amount was released in favour of the injured/ claimant as per the directions in the Award. The balance amount was kept in fixed deposit with the UCO Bank, Delhi High Court Branch with auto renewal mode.

36. However, during the pendency of the present appeal Rajwati/ injured expired on 23rd December 2021, leaving behind the following legal heirs:

S. NO.	NAME OF LR'S	RELATIONSHIP	AGE
1	Gajender Singh	Married son	50 years
2	Gayatri	Married Daughter	44 years
3	Kusum	Married Daughter	39 years
4	Pushpa	Married daughter	37 years
5	Ravi	Married Son	34 years
6	Bittu	Married son	31 years

37. Therefore, the balance amount along with accrued interest shall be apportioned equally between the Legal Representatives of deceased Rajwati.

38. Appeal is, therefore, dismissed. Pending applications are rendered infructuous.

39. Statutory deposit, if any, be refunded to the appellant.

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

(ANISH DAYAL)
JUDGE

MARCH 10, 2026/ak/zb