

MACT No.5/26

Chinta Devi Vs. ICICI Lombard General Insurance Co. Ltd.

07.07.2026

Present : Mr. Anjani Kumar Mishra, Ld. Counsel for petitioners.
 None for respondent no. 1.
 Mr. Gourav Gupta, Ld. Counsel for respondent
 no.2/owner through VC.
 Mr. Vivek Chandra Jaiswal, Ld. Counsel for respondent
 no. 3.

Amended memo of parties dated 17.07.2026 is filed by the Ld. Counsel for the petitioners. Same is taken on record.

No reply has been filed by the respondent no. 1 till date. His right to file reply is hereby closed and he is proceeded ex-parte.

The following issues are framed for adjudication:

1. Whether the deceased Late Radha Kirshan sustained fatal injuries in the accident which occurred on 09.10.2025 at 06:40 AM at Near Dhaula Kuan Metro Station, Cariappa Marg Flyover Dhaula Kuan, Delhi Cantt., New Delhi, due to rash and negligent driving of vehicle bearing No. DL-8CBF1818, allegedly driven by respondent no.1, owned by respondent no.2 and insured with respondent no.3? OPP.
2. Whether the claimant is entitled to compensation? If so, to what amount and from whom? OPP.
3. Relief.

No other issue arises or is pressed for.

The Hon'ble Supreme Court in Gohar Mohammad Vs. Uttar Pradesh State Road Transport Corporation, Civil Appeal No. 9322 of 2022 (arising out of SLP (C) No. 32448 of 2018) has observed that where the insurance company disputes liability, the Claims Tribunal is duty bound to record evidence through a Local Commissioner and the fee/expenses thereof shall be borne by the Insurance Company.

Accordingly, in order to ensure expeditious disposal of the present claim petition, evidence in the present matter shall be recorded by a Local Commissioner at the expense of the Insurance Company.

Ms. Himani Bhardwaj, Advocate, Enrollment No.D/1816/2026, Chamber No.221, S-Block, High Court, Delhi, Mobile No. 8630605758, is hereby appointed as Local Commissioner for recording evidence of the witnesses.

The fee of the Local Commissioner is fixed at Rs.5,000/- per witness, subject to a minimum fee of Rs.15,000/- payable by the Insurance Company to the Local Commissioner. Diet money and other expenses of witnesses shall be borne by the party summoning such witness.

The fee of the Local Commissioner shall be payable by the Insurance Company within four weeks from the date the Local Commissioner raises the bill and supplies the same to the Ld. Counsel for the Insurance Company.

In case the Insurance Company fails to pay the fee of the Local Commissioner within the aforesaid period of four weeks, an additional amount of Rs.5,000/- shall be payable by the Insurance Company as costs to the Local Commissioner.

The proceedings before the Local Commissioner shall commence on 04.08.2026 at 02:00 PM. Thereafter, further dates for recording of evidence shall be fixed by the Local Commissioner in consultation with the parties.

PROTOCOL FOR RECORDING OF EVIDENCE:

I. Preliminary Directions

- (a) Copy of this order be supplied dasti to all parties as well as to the Local Commissioner.
- (b) All parties and Ld. Counsels are expected to extend full cooperation to the Local Commissioner and to each other so as to ensure smooth and expeditious recording of evidence.
- (c) Both sides shall file their respective list of witnesses within one week from today after supplying advance copies to the opposite side.
- (d) Only the minimum necessary number of persons shall remain present during recording of evidence, keeping in view the limited seating capacity and paucity of chairs available in the Court Room. It is further noted that evidence in multiple matters is usually being recorded simultaneously in the Court Room and, therefore,

unnecessary crowding shall be avoided to ensure smooth and orderly conduct of proceedings.

II. Schedule and Manner of Recording Evidence

(a) The claimant shall lead evidence first, followed by the respondents in chronological order.

(b) Any alteration in the schedule, if required, may be decided by the Local Commissioner keeping in view the convenience of all concerned.

(c) The evidence shall preferably be concluded before the next date of hearing. After evidence of all parties is recorded, the Local Commissioner shall submit the original record along with report before the Tribunal.

(d) The Tribunal shall provide access to the judicial record to the parties and the Local Commissioner whenever required.

(e) Examination-in-chief shall be tendered by way of affidavit and copies thereof shall be supplied to the opposite parties well in advance.

III. Duties and Powers of the Local Commissioner:

(a) The Local Commissioner shall record evidence in Court Room No.4, Patiala House Courts, New Delhi. Proceedings shall ordinarily

commence at 02:00 PM and may continue till 04:30 PM.

(b) Evidence shall be recorded by the Local Commissioner personally or through a typist engaged at his/her expense.

(c) The Local Commissioner shall administer oath to witnesses in accordance with the provisions of the Oaths Act, 1969.

(d) The deposition of the litigating party shall ordinarily be recorded before examination of summoned witnesses.

(e) The Local Commissioner shall exhibit documents sought to be proved by the parties. Any objection regarding admissibility or mode of proof shall be recorded in detail and left open for adjudication by the Tribunal at the stage of final arguments.

(f) Original documents shall remain with the parties. Wherever necessary, the Local Commissioner shall endorse the exhibits with "OS&R" (Original Seen and Returned).

(g) Evidence shall preferably be recorded in English.

(h) All objections raised during examination, cross-examination or re-examination shall be recorded separately under the heading "Objections" and shall be decided by the Tribunal at the final stage.

(i) Even where the Local Commissioner finds a question to be irrelevant or objectionable, the same shall ordinarily be recorded along with objection and the witness shall answer the same, subject to orders of the Tribunal.

(j) The Local Commissioner shall ensure that the witness is not prompted or assisted by counsel or any third person during deposition.

(k) Wherever considered necessary, the Local Commissioner shall record the demeanor of witnesses for consideration of the Tribunal.

(l) Uncertified copies of evidence recorded shall be supplied to the parties free of cost.

(m) Original depositions shall remain in safe custody of the Local Commissioner unless those form part of the Court file.

(n) In case any party fails to examine witnesses despite sufficient opportunity, the Local Commissioner may close the right of that party to lead evidence.

(o) The Local Commissioner shall maintain a miscellaneous proceedings sheet for each hearing and submit the same along with the final report.

(p) In case any witness is sought to be declared hostile, the Local Commissioner shall refer the matter to the Tribunal at the earliest.

(q) For smooth coordination and communication regarding dates and scheduling of evidence, the Local Commissioner may create a WhatsApp group and include the Ld. Counsels/Advocates for the parties therein. However, all members of the said group shall maintain professional decorum and avoid sending messages at odd hours except in cases of urgency.

It is noted that the Ld. Counsel for the claimant is Mr. Anjani Kumar Mishra whose mobile number is 7838081461, Ld. Counsel for respondents no. 1 is Ms. Anu Arora whose mobile number is 9911881049, Ld. Counsel for respondent no. 2 is Mr. Gourav Gupta whose mobile number is 9711998149 and Ld. Counsel for respondent no. 3/insurance company is Mr. Vivek Chandra Jaiswal whose mobile number is 9999655670.

(r) If no reply is received within 24 Hrs. to a message sent by the Local Commissioner for fixing of date for recording of evidence, the Local Commissioner may fix any date for recording of evidence as per his/her choice and ignoring the convenience of the Counsel who has not responded.

IV. Adjournments and Costs:

If any party seeks adjournment without giving 24 hours' prior notice, costs of Rs.1,000/- for that day's proceedings shall be paid to the Local Commissioner by the defaulting party.

In case a scheduled witness is unavailable or unwell, the party leading evidence shall endeavour to produce the next available witness from its list.

V. Summoning of Witnesses

If any party seeks summoning of witnesses or production of documents, appropriate summons shall be obtained from the Tribunal in accordance with law.

VI. Conduct Expected from the Local Commissioner

The Local Commissioner shall maintain impartiality, courtesy, confidentiality and punctuality while carrying out the assignment and shall not accept any remuneration or favour beyond the fee fixed by the Tribunal. The Local Commissioner shall also maintain professional distance from litigants and ensure that no third party is allowed to inspect or obtain copies of proceedings without permission of the Tribunal.

VII. Judicial Intervention During Evidence

- (a) The parties shall endeavour to resolve procedural difficulties amicably with the assistance of the Local Commissioner.
- (b) Where judicial intervention becomes necessary, the Local Commissioner shall fix a date for appearance of parties before the Tribunal for removal of such impediment.

The Local Commissioner shall inform the Ahlmad of the Tribunal at least two days in advance in case of non-availability on any date fixed for recording of evidence, if any witness has been summoned.

Copy of this order be sent immediately to the Local Commissioner through electronic mode.

Put up on 06.10.2026.

(Shirish Aggarwal)
Judge/ PO, MACT-01
New Delhi, 07.07.2026