

M.A.C.T No.293/25

Baby Vimala Bagariya Alias Bimala Vs. Utshav Shekhar

23.02.2026

Present : Ms. Sangeeta, Ld. Proxy Counsel for the petitioner through VC.
None for respondents no. 1 and 2.
Ms. Manu Kushwaha, Ld. Counsel for respondent no. 3/insurance company through VC.
HC Naresh Kumar in person.

Request is received from the FSL for not taking any action for the delay in submission of report.

Report has now been received.

Request is allowed.

IO has filed copy of the MLC of the respondent no. 1. He submits that copy has been supplied to the Ld. Counsels for the petitioner, respondent no. 1 and respondent no. 3.

Ld. Counsel for respondent no. 3 submits that reply will be filed within 10 days. Let the same be done.

Since reply has not been filed by respondents no. 1 and 2 and no one has been appearing on their behalf, their defence is struck off and their right to file reply is hereby closed.

At the request made by Ld. Proxy Counsel for the petitioner, the following issues are hereby framed :-

1. Whether the claimant Baby Vimala sustained grievous injury in the accident which occurred on 09.07.2025 at 01:45 am, at Infront of Shiva Camp, Near Bharat Petrol

Pump, Vasant Vihar, Tehsil, New Delhi caused by rash and negligent driving of vehicle No. SK 01PB 0083 being driven by respondent no.1, owned by respondent no.2 and insured with respondent no.3? OPP.

2. Whether the claimant is entitled for compensation? If so, to what amount and from whom? OPP.

3. Relief.

No other issue arises or is pressed.

The Hon'ble Supreme Court in recent judgment titled as *Gohar Mohammad Vs. Uttar Pradesh State Road Transport Corporation, Civil Appeal No. 9322 of 2022 (arising out of Special Leave Petition (C) No. 32448 of 2018)* has given specific directions as under :-

“.....61. In our view the said contention is as per Rule 30. Where the insurance company disputes the liability, the Claims Tribunal is duty bound to record the evidence through the local commissioner and the fee/expenses of such local commissioner shall be borne by the insurance company.”

In view of the aforesaid judgment, the evidence be recorded through Local Commissioner at the expense of the Insurance Company.

Accordingly, **Mr. Sunil Gulia, Advocate, Office Address-D-17, LGF, Greater Kailash-II, New Delhi-110048, having mobile No.9891762502**, is appointed as Local Commissioner to record evidence of witnesses. Fee of the Local Commissioner is fixed at Rs.5,000/- per witness, which shall be paid by the Insurance

Company. Diet money of the witnesses shall be paid by the parties calling them. Recording of evidence before the Local Commissioner shall commence on **16.03.2026 at 02.00 pm**. Further dates for recording of evidence shall be given by the Local Commissioner himself. The evidence shall be recorded as per the following Protocol :-

Recording of Evidence by Local Commissioner

1. Preparation for Assignment

i) Copy of order be shared with parties and Local Commissioner - Copy of the order of framing of issues and of this order shall be provided dasti to the parties as well as the Local Commissioner.

ii) Parties to cooperate - It is expected of all parties that they will cooperate with Local Commissioner as well as with each other in recording of evidence in a cordial manner.

2. Recording of Evidence

i) Filing of list of witnesses- Both sides shall file list of witnesses within one week from today while sharing an advance copy thereof with the opposite Party/Parties.

ii) Order of assignment of Case to the Local Commissioner-

a) Schedule of evidence - The Claimant shall first lead evidence and thereafter, the respondents will lead evidence in chronological order.

Any alteration in schedule for recording of evidence, if needed, shall be decided by the Local Commissioner as per convenience of all concerned and to the extent possible.

b) Time Period – Entire evidence should be concluded preferably before the next date of hearing and report of the Local Commissioner be submitted alongwith original record of evidence.

c) Access to Copy of Trial Record – On demand, the Tribunal will provide access to the judicial record to the parties and to the Local Commissioner.

d) Examination-in-Chief – The Examination-in-Chief shall be filed by way of affidavit. Its copy shall be supplied to opposite party well in advance.

3. Duty of Local Commissioner

i) Place and Time - Local Commissioner shall record evidence in the Court Room No.4, Patiala House Court, New Delhi by typing it himself or from a typist at the cost of the Local Commissioner. Recording of evidence shall start at 2:00 PM and may continue till 4:30 PM.

ii) Chronology of recording – Local Commissioner shall proceed to record the examination by first recording the deposition of litigating party before examining additional summoned witnesses.

iii) Oath to witnesses – Local Commissioner shall administer oath to the witnesses under examination as per Oaths Act, 1969.

iv) Recording of evidence - The evidence shall be typed.

v) Exhibition of documents – Local Commissioner shall exhibit all the documents sought to be proved by a party on record. In case of any objection to exhibition of the documents by either side, the objection shall be recorded in some detail and left open with an assurance that mere marking of such exhibits will not be treated as conclusive proof thereof and that admissibility of such document shall be decided by the referral Tribunal at final stage.

vi) Original documents to be retained by parties - Original documents shall be retained by parties. Local Commissioner shall sign the exhibits with an endorsement OS&R (original seen and returned) wherever necessary.

vii) Language - Recording of evidence shall preferably be carried out in English.

viii) Adjournments - In case an evidence schedule is fixed and adjournment is sought by the opposite side, i.e. the side other than who is leading evidence, without 24-hour advance notice, the cost of that day's proceedings amounting to Rs.1,000/- shall be borne by the party seeking adjournment and shall be paid to the Local Commissioner.

In case a witness scheduled to be examined or under examination is reported to be unwell or unavailable, the party leading the evidence shall produce the next witness in line in the list for recording of evidence.

ix) Recording of objections - All the objections raised during cross-examination/re-examination shall be recorded in the deposition under title objections and shall be left open for the decision of the Tribunal at the stage of final arguments. No witness shall not refuse to answer the question asked.

x) Questions to be allowed - In case Local Commissioner finds any question not related to the fact in issue, he/she shall record his/her objection but shall allow the question to be put and witness must answer.

xi) No third person intervention – Local Commissioner shall ensure that the witness is not assisted by his Counsel or any other person while under examination in answering the questions.

xii) Recording of demeanor of witness - Local Commissioner shall record the demeanor of the witness wherever it is found pertinent and necessary for sharing with the Tribunal.

xiii) Copy of evidence - All parties shall be provided uncertified copy of the evidence recorded, free of cost.

xiv) Safe keeping of original deposition - Local Commissioner shall keep the original depositions in his safe custody till such time they are filed in the Tribunal in original upon completion of each witness individually.

xv) Miscellaneous proceedings – Local Commissioner shall maintain a miscellaneous proceeding sheet for each day of work and shall submit it in the Court at the time of submission of final report.

xvi) Hostile Witness - In case a witness is sought to be declared hostile, then Local Commissioner shall refer both the parties to the Tribunal at the earliest.

4. Miscellaneous

i) Summoning of Witness

a) Summons by Tribunal - In case a litigating party is desirous of summoning a person for deposition or production of documents, it shall obtain summons from the Tribunal.

ii) Advisory to Local Commissioner - While recording the evidence on commission, the Local Commissioner shall ensure the following:

a) Impartial – Local Commissioner shall conduct himself/herself in an impartial way.

b) Polite - Local Commissioner shall be polite with the witness and other stakeholders while recording the evidence.

c) Confidentiality – Local Commissioner shall maintain confidentiality during the whole process.

d) Keeping professional distance – Local Commissioner shall not solicit professional work from the parties.

e) Integrity – Local Commissioner shall not accept remuneration or any favour in cash or kind from the parties over and above the honorarium fixed by the Tribunal.

f) Non-judgmental – Local Commissioner shall not criticize the professional conduct of lawyers and litigating parties on

their understanding of law.

g) Punctuality – Local Commissioner shall adhere to time schedules and shall not make excuses like being engaged in some personal or Court work etc.

h) Coordination - In case of any unforeseen circumstances warranting change of dates of hearing, for his/her own case or on the request of other side, he/she shall apprise the other side in advance via phone call, email, SMS etc.

i) No third-party sharing – Local Commissioner shall not allow the deposition to be inspected by any third party and shall not share a copy thereof with any stranger without permission of the Tribunal.

j) Inspection – Local Commissioner shall not allow any party to inspect the recorded proceedings in his/her absence.

k) Recusal - In case either of the parties or Counsel for the parties are related or closely known to Local Commissioner, Local Commissioner shall recuse from the case and inform the referral Tribunal.

iii) Remuneration of Local Commissioner –

i. Remuneration - In terms of Order 18 Rule 4 (7) of the CPC read with Order 26 of the CPC, Local Commissioner shall be paid remuneration for the work carried out.

ii. Mode of payment - Such remuneration shall be paid directly for the work carried out by way of cash, cheque or digital mode.

iii. Local Commissioner's Fee - Fee for recording of evidence is fixed at Rs.5,000/- per witness.

5. Judicial Intervention during recording of Evidence -

i. Dissolution of hindrances - In case of any conflict resulting into hindrance recording of evidence, it shall be resolved amicably by the parties at their own level with the active help of the Local Commissioner.

ii. Closure of Evidence – In case a Party fails to Examine any Witness despite opportunity, the Local Commissioner or the opposite Party can request the Tribunal to close the right of the defaulting party to lead Evidence.

iii. Court intervention - However, in case of any unforeseen situation requiring judicial intervention, Local Commissioner shall fix date and time for joint appearance of both sides before the Tribunal for removal of any such impediment.

6. Miscellaneous Applications

i. Moving the application - In case either of the parties is desirous of moving any miscellaneous application it shall share an advance copy with the opposite side and reply thereof, if any, shall be filed and shared within seven days.

ii Date of hearing - Upon receipt of reply, both the sides shall get the application fixed for disposal before the Tribunal with the help of Reader of the Court and shall not wait till next date fixed for hearing.

iii. Evidence not to be stalled - It is clarified that, unless Local

Commissioner is of the view that the interim application moved by either of the parties is such that evidence cannot be recorded before its disposal, the recording of evidence shall continue unabatedly.

Re-notify for filing of report by the Local Commissioner on 27.04.2026.

The Local Commissioner is directed to inform the Ahlmad of the Tribunal at least two days in advance in case of his non-availability on the date fixed by him/her for recording evidence, especially, when a doctor has been summoned as a witness.

Let copy of this order be sent to the Local Commissioner immediately by electronic mode.

For the convenience of Local Commissioner for coordinating with the parties, it is noted that the counsel for the claimant is Mr. Prem Kumar Mishra whose mobile number is 9871465730, Ld. Counsel for respondent no. 1 is Mr. Neeraj Kumar whose mobile number is 9044445500 and Ld. Counsel for respondent no. 3 is Ms. Manu Kushwaha whose mobile number is 9810011588.

(Shirish Aggarwal)
Judge/ PO, MACT-01
New Delhi, 23.02.2026