

DLNW010095662024



Presented on : 01-10-2024  
Registered on : 05-10-2024  
Decided on : 16-04-2026  
Duration : 1 years, 6 months, 15  
days

IN THE COURT OF  
ADJ1(NW)/MACT, DISTRICT NORTH WEST DELHI  
Presided Over by Sh. Vikram

M A C T/911/2024  
FIR No. 295/2024, PS Kanjhawala

*In the matter of:*

*Rama Nand Prasad  
S/o Sh. Beju Prasad  
R/o House No. 75, Sainik Enclave,  
Part-II, Jharoda Kalan, Najafgarh,  
Delhi.*

*.....Petitioner*

*Vs.*

*1. Mukesh Kumar  
S/o Sh. Mahendra  
R/o Main Road, near Bus Stand,  
Ladpur, Delhi.*

*.....Driver/R1*

*2. Mahender Singh  
S/o Sh. Sultan Singh  
R/o House No. 287, Main Qutubgarh Road,  
Ladpur, Delhi.*

*.....Owner/R2*

3. *MAGMA HDI General Insurance Co. Ltd.*  
*Office at: A-2, 2<sup>nd</sup> Floor, Kirti Nagar,*  
*Najafgarh Road, Delhi.*

*....Insurance*  
*Company/R3*

*Appearance (s) : Sh. R K Singh and Ms. Rajput Simmy, Ld.*  
*Counsels for petitioner.*  
*Sh. Vishnu Deo Yadav, Id. counsel for R1 &*  
*R2.*  
*Sh. Sourav Mehra, Ld. counsel for Insurance*  
*Company/R3.*

### **JUDGMENT / AWARD**

1. Vide this judgment/award, I shall dispose off the DAR bearing MACT No. 911/2024 pertaining to the injuries of Rama Nand Prasad (*in short, the injured*) suffered in road accident dated 29.06.2024.

### **FACTUAL POSITION AND PLEADINGS**

2. The brief facts relevant for disposal of the present DAR are that on 29.06.2024, petitioner while driving his motorcycle bearing registration no. DL 9S BX 3096 reached near Chotu Ram College, Kanjhawala Road, a vehicle bearing registration no. DL 11 CD 95147, make Maruti Eeco car (hereinafter referred to as offending vehicle) came from wrong side and hit the petitioner due to which petitioner fell down on the road and sustained injuries. Petitioner was rushed to SGM Hospital and treatment was given to

him vide MLC no. 13380. After that petitioner continued his treatment from Aesthetic Dental & Cosmetic Center and diagnosed with complex fracture of the upper left side of the jaw, extending from tooth number 11 to tooth number 25. FIR no. 295/2024 was registered at PS Kanjhawala for the offences punishable under Section 279/337 IPC.

3. As per DAR and investigation conducted by IO, R1 was driving the offending vehicle in negligent manner which caused the accident. R1 was also not having valid DL at the time of accident. As such R1 was charge-sheeted for offences under section 279/338 IPC & 3/181 M.V. Act.

4. Joint WS/reply was filed on behalf of R1 & R2 claiming that no such accident occurred with offending vehicle and offending vehicle has been falsely implicated in the present case. It is also claimed that accident occurred with some other vehicle.

5. Reply was also filed on behalf of R3/insurance company admitting that offending vehicle was insured with R3. However, it is claimed that there is violation of insurance policy as R1 was driving the offending vehicle without any DL at the time of accident.

**ISSUES:**

6. After completion of pleadings, following issues were framed by this Tribunal on 17.02.2025: -

***1. Whether petitioner Rama Nand Prasad S/o  
Sh. Beju Prasad suffered injuries in road traffic***

*accident on 29.06.2024 at about 07:15 pm in front of Space Vatika, Kanjhawala Road Ghevra, Delhi due to rash and negligent driving of offending vehicle bearing registration no. DL 11 CD 9517 which was being driven by driver Mukesh Kumar S/o Sh. Mahender Singh on the said date, time and place? OPP.*

*2. Whether the petitioner/injured is entitled for compensation, if so, to what amount and from whom? OPP.*

*3. Relief.*

7. The place of accident in issue no. 1 is mentioned as in front of Space Vatika, Kanjhawala Road, Ghevra whereas the accident of petitioner occurred near Chotu Ram College. Therefore, the issue no. 1 framed again as under:

*1. Whether petitioner Rama Nand Prasad S/o Sh. Beju Prasad suffered injuries in road traffic accident on 29.06.2024 at about 07:15 pm near Chotu Ram College, Kanjhawala Road Ghevra, Delhi due to rash and negligent driving of offending vehicle bearing registration no. DL 11 CD 9517 which was being driven by driver Mukesh Kumar S/o Sh. Mahender Singh on the said date, time and place? OPP.*

**PETITIONER'S EVIDENCE**

8. In order to prove its case, petitioner examined himself as Pw1 and filed his affidavit Ex.Pw1/A and relied on Copy of DAR Ex.Pw1/1 (colly), copy of aadhar card Ex.Pw1/2 (OSR), treatment record & bills Ex.Pw1/3 (colly) and salary record & leave record Ex.Pw1/4(colly). During his cross examination, he deposed that offending vehicle came from wrong side. He denied that accident occurred with a vehicle other than offending vehicle.

9. In respondents evidence, R1 has examined himself as R1w1 who filed his affidavit Ex.R1w1/A and proved copy of registration certificate of offending vehicle and insurance policy Ex.R1w1/2 & Ex.R1w1/3. He deposed that at the time of accident, the offending vehicle was being driven by his father/R2 and he has been falsely implicated in the present case. He also deposed that R2 was repairing the offending vehicle and he was standing there, at the time of accident.

10. R2 has examined himself as R2w1 and filed his affidavit Ex,R2w1/A and proved his DL Ex.R2w2/2. He deposed that at the time of accident, he was driving the offending vehicle. He admitted that he has not made any complaint of false implication of his son/R1. He also admitted that his son did not have valid DL at the time of accident. He denied that R1 was under the influence of alcohol at the time of accident.

11. R3 has examined Ms. Harshita Mittal as R3w1 who filed

her affidavit Ex.R3w1/A and admitted that offending vehicle was insured with R3.

12. Thereafter, evidence was closed. I have heard ld. Counsel for the parties and have gone through the testimony of witnesses including the pleadings and the documents. My issue wise findings in the case are as under :-

### **FINDINGS**

#### **ISSUE NO.1**

***1. Whether petitioner Rama Nand Prasad S/o Sh. Beju Prasad suffered injuries in road traffic accident on 29.06.2024 at about 07:15 pm in front of Space Vatika, Kanjhawala Road Ghevra, Delhi due to rash and negligent driving of offending vehicle bearing registration no. DL 11 CD 9517 which was being driven by driver Mukesh Kumar S/o Sh. Mahender Singh on the said date, time and place? OPP.***

13. It is well settled that the procedure followed for proceedings conducted by an accident tribunal is similar to that followed by a civil court and in civil matters the facts are required to be established by preponderance of probabilities only and not by strict rules of evidence or beyond reasonable doubts as are required in a criminal prosecution. The burden of proof in a civil case is never as heavy as that is required in a criminal case, but in a claim petition under the Motor Vehicles Act, this burden is infact even

lesser than that in a civil case. Reference in this regard can be made to the propositions of law laid down by the Hon'ble Supreme Court in the case of **Bimla Devi and others Vs. Himachal Road Transport Corporation and others, reported in (2009) 13 SC 530**, which were reiterated in the subsequent judgment in the case of **Parmeshwari Vs. Amir Chand and others 2011 (1) SCR 1096 (Civil Appeal No.1082 of 2011)** and also recently in another case **Mangla Ram Vs. Oriental Insurance Co. Ltd. & Ors., 2018 Law Suit (SC) 303**.

14. Petitioner has proved his medical treatment papers, bills, salary slip, leave record and DAR. It is claim of R1 & R2 that offending vehicle has been falsely implicated in the present as no accident occurred with offending vehicle. However, R2 in his testimony admitted that he has not filed any complaint with respect to false implication of R1 and offending vehicle. At the stage of evidence, R1 & R2 deposed that at the time of accident offending vehicle was being driven by R2. However, no such claim was ever taken by R1 & R2 while filing their WS/reply to DAR. R2, to notice under Section 133 M.V. Act specifically replied that at the time of accident R1 was driving the offending vehicle. It appears that R1 & R2 has taken this plea only to skip their liability as the R1 was not having valid DL at the time of accident. R1 & R2 has not filed any complaint regarding false implication of offending vehicle in the present case and R1 is facing criminal proceedings. Thus, the case does not warranted any best evidence.

15. On the other hand, the FIR shows that when IO reached at spot, the offending vehicle was damaged the front tyre of

motorcycle. The mechanical inspection report shows that there was damage on front bumper and body, windscreen, headlights and fender. There is no way that these damages could have on offending vehicle if it was stationary and R2 was repairing it. Hence, R1 and R2 have taken false defense.

16. Keeping in view the facts & evidence produced by the petitioner, it has proved on record that the said accident has taken place with the offending vehicle being driven by respondent no.1, as a result of which, the petitioner sustained injuries.

17. In view of the aforesaid discussion and the evidence which has come on record, it is held that the rashness and negligence on the part of driver of the offending vehicle, which is clearly visible and as such, was responsible not only for this accident, but also for everything that followed thereafter. Accordingly issue no.1 is decided in favour of the petitioner and against the respondents.

### **ISSUE NO. 2**

18. As the issue no.1 has been proved in affirmative and in favour of the petitioner, the petitioner has become entitled to be compensated for the injuries suffered in the above accident, but the computation of compensation and liability to pay the same are required to be decided.

19. In terms of provisions contained in Section 168 of the MV Act the compensation which is to be awarded by this tribunal is



required to be 'just'. In the injury cases a claimant is entitled to two different kinds of compensations i.e. pecuniary as well as non-pecuniary damages. The pecuniary damages or special damages are those damages which are awarded and designed to make good the losses which are capable of being calculated in terms of money and the object of awarding these damages is to indemnify the claimant for the expenses which he had already incurred or is likely to incur in respect of the injuries suffered by him in the accident. The non-pecuniary or general damages are those damages which are incapable of being assessed by arithmetical calculations. The pecuniary or special damages generally include the expenses incurred by the claimant towards his treatment, special diet, conveyance, cost of nursing/ attendant, loss of income/earning capacity etc. and the non-pecuniary damages generally include the compensation for the mental or physical shock, pain and sufferings, loss of amenities of life, marriage prospects and disfiguration etc. The above categories falling under both the heads of compensation are not exhaustive in nature but only illustrative. It is also necessary to state here that no amount of money or compensation can put the injured/claimant exactly in the same position or place where he was before the accident and an effort is to be made only to reasonably compensate him or to put him almost in the same place or position where he could have been if the alleged accident had not taken place and this compensation is to be assessed in a fair, reasonable and equitable manner. The object of compensating him is also not to reward him or to make him rich in an unjust manner. It is also well

settled that the 'just' compensation to be awarded to the claimant has to be calculated objectively and it may involve some guess work in calculating the different amounts which the claimant may be entitled under the different heads of compensation. Reference in this regard can be made on some of important judgments on the subject like the judgment in the case of **R.D. Hattangadi Vs. Pest Control (India) Pvt. Ltd.**, AIR 1995 SC 755, **Arvind Kumar Mishra Vs. New India Assurance Company Limited**, (2010) 10 SCC 254 and **Raj Kumar Vs. Ajay Kumar & Anr.**, (2011) 1 SCC 343.

20. In light of the above legal prepositions, the amount of compensation which could be considered to be 'just' in the opinion of this tribunal shall be as under:-

**Medical or Treatment Expenses:**

21. Petitioner in his evidence deposed that he has spent Rs. 2,00,000/- on his medical treatment. However, the medical bills proved on record as Ex.Pw1/3 (colly) are amounting to Rs. 23,202/- only. Therefore, a sum of Rs. 23,202/- is granted under this head.

**Conveyance, special diet and attendant charges**

22. Ld. Counsel for petitioner argued that petitioner had spent considerable amount on special diet, conveyance, attendant of injured and physiotherapy i.e. Rs. 90,000/- for each but he has failed to lead any cogent evidence to prove the amount actually spent by him under the aforesaid heads. At the same time, it cannot be overlooked that injured had sustained grievous injuries/complex

fracture of the upper left side of the jaw, extending from tooth number 11 to tooth number 25. As per medical documents, petitioner remained under treatment for more than two months. He would have taken special rich protein/calcium diet for his speedy recovery and would have been definitely helped by some person either outsider or from his family, to perform his daily activities. In these facts and circumstances, I hereby award a notional sum of Rs. 40,000/- for special diet, Rs. 30,000/- towards attendant and Rs. 10,000/- for conveyance charges to the petitioner. Hence, an amount of **Rs. 80,000/-** be awarded as attendant and special diet head.

### **Pain and Suffering**

23. As per the medical documents, injured suffered grievous injuries (complex fracture of the upper left side of the jaw, extending from tooth number 11 to tooth number 25) in the road traffic accident on 29.06.2024. He remained under treatment for about more than two months, as per medical papers proved on record. It is not possible to quantify the compensation admissible to injured for the shock, pain and sufferings etc. which he actually suffered because of the above injuries, but as stated above, an effort has to be made to compensate him for the same in a just and reasonable manner. Hence, keeping in view the extent and nature of the injuries suffered by injured and duration of the treatment etc., an amount of Rs. 2,00,000/- is being awarded to him towards pain and sufferings during the said period of his treatment and immobility. Thus, he is awarded a total amount of **Rs. 2,00,000/-** under this

head.

### **Loss of Actual Earnings**

24. It is claimed that injured was a working as an Assistant Manager in State Bank of India and was earning Rs. 93,000/- per month. However, nothing is proved on record to show if petitioner has suffered any loss of income/earning due to the accident. Therefore, nothing is granted under this head.

### **Loss of Leaves**

25. Petitioner has proved that he had to take 11 days sick leave (half pay) due to the said accident. It cannot be ignored that because of this accident, petitioner has been compelled to exhaust his sick leave, which he would have otherwise been able to avail in future. Therefore, the injured is entitled to his entire salary for the period for which he remained on leave. However, as the petitioner was on half pay sick leave for 11 days he is entitled for half pay of 11 days. The compensation towards the Loss of Leave thus, comes to **Rs. 41,935.395/-** [Rs. 83,870.79 (i.e. basic + DA) x 11 days]/2 . Therefore, petitioner is granted **Rs. 41,935.395/- under this head.**

26. Thus, the total compensation is assessed as under : -

| S. No. | Head                                                 | Amount       |
|--------|------------------------------------------------------|--------------|
| 1      | Medical Expenses                                     | 23,202       |
| 2      | Attendant charges, special diet & conveyance charges | 80,000       |
| 3      | Pain and suffering                                   | Rs. 2,00,000 |
| 4      | Loss of actual earning                               | Nil          |

|   |                |             |
|---|----------------|-------------|
| 5 | Loss of Leaves | 41,935.395  |
|   | Total          | 3,45,137.39 |
|   |                | 5           |
|   | Round off      | 3,45,140    |

### Issue No.3/Relief

27. The petitioner is thus entitled to a sum of **Rs. 3,45,140/- (Rs. Three Lacs Forty Five Thousand One Hundred Forty Only)** along with interest @ 9% per annum from the date of filing of the **DAR** i.e. **05.10.2024** till compliance and @ 12% per annum thereafter. However, it is directed that the amount of interim award and interest for the suspended period, if any, during the course of this inquiry, shall be liable to be excluded from the above amount and calculations of compensation.

### LIABILITY

28. In the case in hand, offending vehicle was insured with R3. However, it is claimed of R3 that R1 was not having valid DL at the time of accident. R2 has also admitted this fact in his testimony. Further, R1 has also been charge sheeted for offence punishable under Section 3/181 M.V. Act. However, as the offending vehicle was insured with R3 at the time of accident, R3 cannot be directly absolved from his liability. Therefore, R3 is directed to deposit the above award amount within 30 days from the date of this Award by way of NEFT or RTGS mode in the account of this Tribunal maintained with SBI, Rohini Courts, Delhi under intimation to the petitioner/ injured and this Tribunal in terms of the format for

remittance of compensation as provided in **Divisional Manager Vs. Rajesh**, 2016 SCC Online Mad. 1913 (and reiterated by Hon'ble Supreme Court in the orders dated 16.03.2021 and 16.11.2021 titled as **Bajaj Allianz General Insurance Co. Pvt. Ltd. Vs. Union of India & Ors**) along with interest @ 9% per annum. Issue no. 2 is decided accordingly. **R3 shall have right to recover the amount paid from R1 & R2, jointly and severally.**

### **APPORTIONMENT**

29. The statement of Petitioner in terms of Clause 29 MCTAP is on record. *Entire award amount alongwith up-to-date interest be released to petitioner in his bank account i.e. A/c no. 44077172600, IFSC Code: SBIN0050381, SBI, Karala, Delhi.*

30. A digital copy of this award be provided to the parties. Ahlmad is directed to send a copy of the award to Ld. Metropolitan Magistrate concerned and Delhi Legal Services Authority in view of Central Motor Vehicles (fifth Amendment) Rules, 2022 [(Directions at serial nos. 39, 40 of Procedure for Investigation of Motor Vehicle Accidents (under Rule 150A)]. Further Nazir is directed to maintain the record in Form XVIII in view of Central Motor Vehicles (fifth Amendment) Rules, 2022 [(Directions at serial no. 41 of Procedure for Investigation of Motor Vehicle Accidents (under Rule 150A)).

31. Ahlmad is also directed to e-mail an authenticated copy of the award to the insurer as directed by the Hon'ble Supreme Court of

India in WP (Civil) No. 534/2020 titled as Bajaj Allianz General Insurance Co. Pvt. Ltd. Vs. Union of India & Ors. on 16.03.2021. Ahlmad shall also e-mail an authenticated copy of the award to Branch Manager, SBI, Rohini Courts for information.

32. Ahlmad is further directed to comply with the directions passed by the Hon'ble High Court of Delhi in MAC APP No. 10/2021 titled as New India Assurance Company Ltd. Vs. Sangeeta Vaid & Ors., date of decision : 06.01.2021 regarding digitisation of the records.

33. **Form V and IVB in terms of MCTAP are annexed herewith as Annexure-A.**

34. Nazir is directed to file report as to compliance of award after 30 days.

File be consigned to record room.

**ANNOUNCED IN THE OPEN COURT  
ON 16<sup>th</sup> DAY OF APRIL, 2026**

**VIKRAM  
DISTRICT JUDGE-01 + MACT  
NORTH WEST DISTRICT  
ROHINI COURTS, DELHI**