

DLNW010033562023



Presented on : 11-04-2023  
Registered on : 13-04-2023  
Decided on : 15-04-2026  
Duration : 3 years, 0 months, 4 days

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

M A C T/319/2023  
FIR No. 354/2022, PS Jani, District Merrut

*In the matter of:*

*Baby Anushka Sharma*  
*D/o Late Sh. Rajiv Kumar Sharma*  
*Through her mother*  
*Smt. Geeta*  
*W/o Late Sh. Rajiv Kumar Sharma*  
*R/o D-388, Avantika Sector-1,*  
*North-West, Rohini, Delhi*

*.....Petitioners*

vs.

1. *Sh. Harshit @ Kale*  
*S/o Sh. Satender @ Bobby*  
*R/o Majra Bhagwan Garhi,*  
*Village Jani, District Meerut,*  
*U.P.-250501*

*..... Driver/R1*

2. *Sh. Ravi*  
*S/o Sh. Krishan Pal*  
*R/o Village Nek, PS Jani,*  
*District Meerut, U.P.*

*.....Owner/R2*

3. *Go Digit General Insurance Ltd.*  
*Office at: 7A, 7<sup>th</sup> Floor, Gopal Tower,*  
*Rajendra Place, New Delhi.*

.....*Insurance Co./R3*

*Appearance (s) :*      *Sh. A.K. Pandey, Ld. Counsel for the petitioners.*  
                                 *Sh. T.A. Rajpur, Ld. Counsel for respondent no. 1*  
                                 *& 2.*  
                                 *Sh. Shailender Rai, Ld. counsel for R3/Insurance*  
                                 *Co.*

### **JUDGMENT/AWARD**

1.      Vide this judgment/award, I shall dispose off MACT Claim Petition filed under Section 166 & 140 of the Motor Vehicle Act, 1988 (hereinafter referred to as M.V. Act), in regard to injuries of Baby Anushka Sharma, (***in short, the injurea***), who suffered grievous injuries in a road vehicular accident on 24.10.2022.
  
2.      Brief facts as per claim petition are that on 24.10.2022 at about 01:30 pm, the deceased Rajiv Kumar Sharma alongwith his daughter Anushka Sharma (injured herein) were coming to Ghaziabad from their native village Naipura, District Muzaffarnagar on motorcycle bearing registration no. UP 14AC 3992 which was being driven by deceased Rajiv Kumar Sharma in a very normal speed and on the correct side of the road. When they reached around 2 km ahead Bhole Ki Jhal, a car bearing registration no. UP 16 AB 6171 (hereinafter referred to as offending vehicle) which was being driven by its driver/R1 in a very high speed, rashly and negligently in zig zag manner hit the motorcycle, after changing its lane, due to which deceased and the injured fell on the road and sustained injuries. They

were immediately taken to Subharti Hospital. Petitioner has suffered fracture of both bones tibia and fibula mid shaft region of both sides leg. FIR No. 354/2022 was registered for the offence punishable under Section 279/338/304A IPC at PS Jani District Merrut.

3. As per claim petition and criminal record filed alongwith claim petition, R1 was driving the offending vehicle in negligent manner which caused the accident resulting in injuries of petitioner. As such R1 was charge-sheeted for offences under section 279/338/304A IPC.
4. Joint WS/reply was filed on behalf of R1 & R2 wherein it is claimed that the offending vehicle, at the time of accident ,was being driven by R2/owner. It is also claimed that the offending vehicle was standing for waiting someone and driver of the motorcycle hit the offending vehicle from right side due to which they fell on the road and sustained grievous injuries. After the accident R2/owner ran away from the sport and police apprehended R1 and falsely implicated in the present case.
5. Reply on behalf of R3 was also received in which it is claimed that the motorcycle had a head on collision with the offending vehicle and the deceased was driving the motorcycle in a rash and negligent manner. Therefore, the motorcyclist and the driver of offending vehicle be held liable for contributory negligence to the extent of 50% each. It is also stated that the driver of motorcycle was driving the motorcycle without a valid DL. It is admitted that offending vehicle was insured with R3 at the time of accident.

### ISSUES:

6. After completion of pleadings, following issues were framed by this Tribunal on 09.01.2024. However, record shows that this is case of grievous injuries and the issue no. 1 was framed as same as in the connected DAR which is filed for death of father of petitioner Anushka sharma. Therefore, the issue is re-framed as under

- 1. Whether injured Anushka Sharma, D/o late Sh. Rajiv Kumar Sharma suffered injuries in road traffic accident on 24.10.2022 at about 01:30 pm around 2 km ahead Bhole Ki Jhal, near Canal Road within jurisdiction of PS Jani, District Meerut due to rash and negligent driving of offending vehicle bearing no. UP 16 AB 6171 which was being driven by driver Sh. Harshit @ Kale S/o Sh. Satender @ Bobby, on the said date, time and place? OPP.*
- 2. Whether the petitioner is entitled to compensation, if so, to what amount and from whom? OPP*
- 3. Relief.*

### EVIDENCE:

7. In evidence, Pw1 Geeta, mother of injured was examined. She tendered his evidence by way of affidavit Ex.Pw1/A and relied on following documents:

- (a) Medical treatment record of petitioner/injured Ex.Pw1/1(colly)
- (b) Medical bills of petitioner Ex.Pw1/2 (colly)
- (c) Copy of educational certificate of the petitioner Ex.Pw1/3
- (d) Copy of school identity card of petitioner Ex.Pw1/4
- (e) Copy of Aadhar card of petitioner/injured Ex.Pw1/5
- (f) Copy of aadhar card of deponent Ex.Pw1/6
- (g) Certified copy of criminal case Ex.Pw1/7 (colly)

8. Pw1 was cross examined by respondents. During her cross examination she denied that she has filed and fabricated documents for seeking compensation. She admitted that she has no filed treatment record of six months. She also admitted that she has no document to show the expenses mentioned in para no. 4 of her affidavit. She denied the suggestion that R1 was not driving the offending vehicle in rash and negligent manner.
9. Petitioner was examined as Pw2. She was the eye witness of the accident. She deposed that offending vehicle was being driven in rash and negligent manner and the driver of the offending vehicle hit the motorcycle from front. She also deposed that after the accident, R1 tried to flee from the spot, but he was apprehended by the crowd. In her cross examination she admitted that her Tau Ji namely Sh. Vinay Kumar was not with them at the time of accident. She denied the suggestion that the driver who was caught on the spot told his name as Kale @ Vasu S/o Bobby. She denied the suggestion that offending vehicle has been falsely implicated in the present case.
10. Thereafter, the petitioner's evidence was closed.
11. In respondents evidence, R1/driver examined himself as RW1 by way of affidavit Ex.Rw1/A. It is stated in the affidavit, the on the date of accident the offending vehicle was being driven by R2. After the accident, R2/owner ran away from the spot. It is also stated that R2/driver was standing near Bhole Ki Jhal for waiting someone then

suddenly one motorcycle bearing no. UP 14 AC 3992, driven by deceased, came from front side, hit the offending vehicle. This witness was cross examined by petitioner as well as R3. He admitted that he was not having valid DL at the time of accident. He also admitted that he has not filed any complaint regarding his false implication in the present case.

12. R3 examined one witness namely Sh. Paramvir Singh, Legal Associate as R3W1 who tendered his evidence by way of affidavit Ex.R3W1/A and relied on copy of insurance policy Ex.R3W1/B, copy of office notice alongwith postal receipts Ex.R3W1/B and authority letter Ex.R3W1/D.

13. Thereafter, the respondent 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:-

**ISSUE NO.1**

*1. Whether injured Anushka Sharma, D/o late Sh. Rajiv Kumar Sharma suffered injuries in road traffic accident on 24.10.2022 at about 01:30 pm around 2 km ahead Bhole Ki Jhal, near Canal Road within jurisdiction of PS Jani, District Meerut due to rash and negligent driving of offending vehicle bearing no. UP 16 AB 6171 which was being driven by driver Sh. Harshit @ Kale S/o Sh. Satender @ Bobby, on the said date, time and place? OPP.*

14. 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**.

15. The involvement of offending vehicle of the respondent no.2 in accident is not only undisputed but also corroborated by the documentary evidence collected in FIR No. 354/22 that offending vehicle was found present at the spot. Petitioner/Pw2 i.e. daughter of deceased who suffered grievous injuries in the accident is the eye witness of the accident. She deposed that offending vehicle was being driven by R1 in rash and negligent manner and the offending vehicle hit the motorcycle from front side. She also deposed that R1 tried to flee from the spot but he was apprehended by crowd. Presence of R1 as the driver of the offending vehicle is also undisputed. However, it is claimed by R1 that at the time of accident

the offending vehicle was being driven by R2/owner and after the accident, he ran away from the spot and police apprehended him. But R1 has not filed any complaint regarding the said fact. Record shows that R1 in his evidence by way of affidavit Ex.Rw1/A stated that the offending vehicle was being driven by R2/owner and offending vehicle hit the motorcycle. However, in the same at para no. 5, he deposed that R2/owner was standing near Bhole Ki Jhal and while waiting for someone, deceased hit the offending vehicle. R1 has deposed two contradictory version in Ex.Rw1/A. Further, R1, after registration of FIR, has not filed any complaint of his false implication in the FIR. Pw2 who is the victim of the incident has specifically deposed that it was the car which was driven in rash and negligent manner and when R1 tried to flee he was apprehended by public. Keeping in view the facts & evidence produced by the petitioner, on the test of preponderance of probabilities, it is established that the accident was caused due to the rash and negligent driving of the offending vehicle being driven by respondent No.1, as a result of which, petitioner suffered grievous injuries.

16. The fact that FIR was lodged against the respondent no.1 and he faced criminal charges of causing death and injuries by rash and negligent driving in the said accident is also an adverse inference on the respondents in view of the law laid down in case of *Cholamandalam M.S. General Insurance Company Ltd. Vs. Kamlesh, reported in 2009 (3) AD (Delhi) 310.*

17. In view of the facts disclose in the claim petition which proves

place of incident as well as injuries suffered by petitioner and on the basis of 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**

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

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'. Reference in this regard can be made to the judgment in the case of **Raj Kumar Vs. Ajay Kumar & Anr., (2011) 1 SCC 343**, wherein Hon'ble Supreme Court of India has laid down the general principals with regard to compensation in injury cases.

“4. The provision of the [Motor Vehicles Act](#), 1988 ('Act' for short) makes it clear that the award must be just, which means that compensation should, to the extent possible, fully and adequately restore the claimant to the position prior to the accident. The object of awarding damages is to make good the loss suffered as a result of wrong done as far as money can do so, in a fair, reasonable and equitable manner. The court or tribunal shall have to assess the damages objectively and exclude from consideration any speculation or fancy, though some conjecture with reference to the nature of disability and its consequences,

is inevitable. A person is not only to be compensated for the physical injury, but also for the loss which he suffered as a result of such injury. This means that he is to be compensated for his inability to lead a full life, his inability to enjoy those normal amenities which he would have enjoyed but for the injuries, and his inability to earn as much as he used to earn or could have earned. ([See C. K. Subramonia Iyer vs. T. Kunhikuttan Nair](#) - AIR 1970 SC 376, [R. D. Hattangadi vs. Pest Control \(India\) Ltd.](#) - 1995 (1) SCC 551 and [Baker vs. Willoughby](#) - 1970 AC 467).

5. The heads under which compensation is awarded in personal injury cases are the following :

**Pecuniary damages (Special Damages)**

- (i) Expenses relating to treatment, hospitalization, medicines, transportation, nourishing food, and miscellaneous expenditure.
- (ii) Loss of earnings (and other gains) which the injured would have made had he not been injured, comprising :
  - (a) Loss of earning during the period of treatment;
  - (b) Loss of future earnings on account of permanent disability.
  - (iii) Future medical expenses.

**Non-pecuniary damages (General Damages)**

- (iv) Damages for pain, suffering and trauma as a consequence of the injuries.
- (v) Loss of amenities (and/or loss of prospects of marriage).
- (vi) Loss of expectation of life (shortening of normal longevity). In routine personal injury cases, compensation will be awarded only under heads (i), (ii)(a) and (iv). It is only in serious cases of injury, where there is specific medical evidence corroborating the evidence of the claimant, that compensation will be granted under any of the heads (ii)(b), (iii), (v) and (vi) relating to loss of future earnings on account of permanent disability, future medical expenses, loss of amenities (and/or loss of prospects of marriage) and loss of expectation of life. Assessment of pecuniary damages under item

(i) and under item (ii)(a) do not pose much difficulty as they involve reimbursement of actuals and are easily ascertainable from the evidence. Award under the head of future medical expenses - item (iii) -- depends upon specific medical evidence regarding need for further treatment and cost thereof. Assessment of non-pecuniary damages - items (iv), (v) and (vi) -- involves determination of lump sum amounts with reference to circumstances such as age, nature of injury/deprivation/disability suffered by the claimant and the effect thereof on the future life of the claimant. Decision of this Court and High Courts contain

necessary guidelines for award under these heads, if necessary. What usually poses some difficulty is the assessment of the loss of future earnings on account of permanent disability - item (ii)(a). We are concerned with that assessment in this case. Assessment of future loss of earnings due to permanent disability ”

20. In light of the above legal propositions, 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. Pw-1 deposed that she incurred a huge sum on her medical treatment. All the medical documents/ bills have been relied upon by Pw1 in his evidence. The medical bills proved on record are amounting to Rs. 1,09,333/- Keeping in view the nature of injury i.e. grievous injury, the petitioner is granted a sum of **Rs. 1,09,333/-** under this head.

#### **Pain and Suffering**

22. As per the MLC and medical documents, injured suffered grievous injuries i.e. fracture of both bones tibia and fibula mid shaft region of both sides leg, in the road traffic accident on 24.10.2022. As per the medical bills and treatment papers placed on record, petitioner remained admitted hospital from 24.10.2022 to 27.10.2023. Petitioner was also advised rest for six months. 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 her 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 of him etc., an amount of Rs. 5,00,000/- is being awarded to him towards pain and sufferings during the said period of her treatment and immobility. Thus, she is awarded a total amount of **Rs. 5,00,000/-** under this head.

### **Conveyance, attendant charges and Special Diet**

23. Petitioner has claimed that she incurred expenses on injury, medical treatment and special diet. However, she failed to place on record any corroborative material in this regard. The bills furnished by petitioner show that she kept visiting hospital till 20.02.2023. In view of the nature of injuries sustained by her, her multiple visits to hospital and also on the basis of bills and treatment details of injured, it can be assumed that she must have kept attendant for a period of about 6 months at least. Certificate advising rest for six months is also proved on record. Hence, reasonably a sum of **Rs. 50,000/-** as attendant charges and **Rs. 20,000/-** as conveyance charges and **Rs. 50,000/-** towards special diet are awarded. Hence, a sum of **Rs. 1,20,000/-** is awarded to the petitioner cumulatively under these heads.

### **AGONY TO THE PARENTS**

24. The injured/petitioner sustained grievous injuries due to the accident in question and the mother of injured/petitioner have looked after her and for the said purpose, the mother had already lost her husband in the same accident. The mother of the injured/petitioner must have suffered physical discomfort, inconvenience and loss of

earnings during the period of hospitalization of injured/petitioner. Therefore, **Rs. 2,00,000/-** is awarded towards agony to the parents.

#### **LOSS OF STUDIES / GENERAL AMENITIES OF LIFE**

25. The petitioner has averred in his petition that she was maintaining a good health and physique working efficiently prior to the accident but has not been able to discharge her daily activities including studies. Thereafter, she has followed up in OPD's as an out Patient which has adversely affected the studies of the petitioners and her enjoyment of general amenities of life. Taking into account the condition of the petitioner as well as the medical records, she might have not attended his classes/enjoyed normal amenities of life for about six months. It is on record that petitioner has passed 7<sup>th</sup> standard in the year 2021-2022 and at the time of accident she was in 8<sup>th</sup> standard. However, because of the accident, she has to dropped one year and thereafter, petitioner again took admission in 8<sup>th</sup> standard vide receipt dated 21.04.2023, placed on record. In these facts and circumstances, this tribunal awards a notional sum of **Rs. 2,00,000/-** Only on aforesaid account.

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

| S. No. | Head                                           | Amount             |
|--------|------------------------------------------------|--------------------|
| 1      | Medical Expenses                               | 1,09,333/-         |
| 2      | Pain and Suffering                             | 5,00,000/-         |
| 3      | Conveyance/ Attendant charges and special diet | 1,20,000/-         |
| 4.     | Agony to the parents                           | 2,00,000/-         |
| 5.     | Loss of studies / general amenities of life    | 2,00,000/-         |
|        | <b>Total</b>                                   | <b>11,29,333/-</b> |

### **Issue No.3/Relief**

27. The petitioner is thus entitled to a sum of **Rs. 11,29,333/- (Rs. Eleven Lacs Twenty Nine Thousand Three Hundred Thirty Three Only)** along with interest @ **9%** per annum from the date of filing of the **Claim Petition** i.e. 13.04.2023 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. Now, the question which arises for determination is as to which of the respondents is liable to pay the compensation amount. The same is decided in connected MACT No. 320/2023 of the same accident. **Therefore, R3 is liable to pay the amount of compensation to the claimants/ petitioners. Issue No.2 is decided accordingly. Issue No.2 is decided accordingly. The parties are directed to download the digital copy of judgment online.**

### **APPORTIONMENT**

29. The statement of mother of petitioner on behalf petitioner in terms of Clause 29 MCTAP was recorded on 11.07.2025. Entire award amount is awarded to the petitioner Anushka Sharma.
30. Thus, having regard to the facts and circumstances of the case, it is hereby ordered that entire award alongwith up to date interest be

released to petitioner Anushka Sharma immediately in her MACT saving bank account no. 20780110232934, IFSC Code: UCBA0002078 and it be kept in the form of FDRs till attaining majority. The FDR shall not be allowed to be cancelled/withdrawn without the leave of the Court.

31. *The following conditions are to be adhered to by SBI, Rohini Courts, Delhi and UCO Bank, KKD Branch with respect to the fixed deposits:-*

*(a) The Bank shall not permit any joint name(s) to be added in the savings bank account or fixed deposit accounts of the claimant(s) i.e. the savings bank account(s) of the claimant(s) shall be an individual savings bank account(s) and not a joint account(s).*

*(b) The original fixed deposit shall be retained by the bank in safe custody. However, the statement containing FDR number, FDR amount, date of maturity and maturity amount shall be furnished by bank to the claimant(s).*

*(c) The monthly interest be credited by Electronic Clearing System (ECS) in the savings bank account of the claimant(s) near the place of their residence.*

*(d) The maturity amounts of the FDR(s) be credited by Electronic Clearing System (ECS) in the savings bank account of the claimant (s) near the place of their residence.*

*(e) No loan, advance, withdrawal or pre-mature discharge be allowed on the fixed deposits without permission of the Court.*

*(f) The concerned bank shall not be issue any cheque book and/or debit card to claimant(s). However, in case the debit card and/or cheque book have already been issued, bank shall cancel the same before the disbursement of the award amount. The bank shall debit card (s) freeze the account of the claimant(s) so that no debit card be issued in respect of the account of the claimant(s) from any other branch of the bank.*

*(g) The bank shall make an endorsement on the passbook of the claimant(s) to the effect that no cheque book and/or debit card have been issued and shall not be issued without the permission of the Court and claimant(s) shall produce the passbook with the necessary endorsement before the Court on the next date fixed for compliance.*

*(h) It is clarified that the endorsement made by the bank along with the duly signed and stamped by the bank official on the passbook(s) of the claimant(s) is sufficient compliance of clause (g) above.*

32. Concerned Manager, SBI, Rohini Court Branch is directed to transfer the disbursed amount immediately to the petitioners in their MACT saving bank accounts, on completing necessary formalities as per rules.
33. Copy of this Award alongwith one photograph each, specimen signatures, copy of bank passbook and copy of residence proof of the petitioners, be sent to Nodal Officer of SBI, Rohini Court, Branch, Delhi for information and necessary compliance.
34. 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)).

35. 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.
36. 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.
37. **Form V and IVB in terms of MCTAP are annexed herewith as Annexure-A.**
38. A separate file be prepared for compliance report by the Nazir and put up the same on 15.04.2026.
39. File be consigned to record room after due compliance.

**ANNOUNCED IN THE OPEN COURT  
ON 15<sup>th</sup> DAY OF APRIL, 2026**

**VIKRAM**  
DJ-1+MACT, NORTH WEST,  
ROHINI COURTS, DELHI