

**IN THE COURT OF VIJAY KUMAR JHA
PRESIDING OFFICER:
MOTOR ACCIDENT CLAIMS TRIBUNAL-01, SHAHDARA
KARKARDOOMA COURTS, DELHI**

In the matter of :

MACT no. 02/2023

Bhoori & Anr. v. Rajbir Singh & Anr.

- (1) **Bhoori** (mother of the deceased)
Wife of Sh. Mohd. Shahid Ansari
R/o 1002, Main Shani Bazar Road,
Johripur, Gokalpur, Delhi-110094.

Present Address: 431, 1st Floor, Gali no.01,
Asram Wali Gali, Behind Shri Ram Palace,
Near Indira Puri Police Chowki, Loni, Ghaziabad, U.P.

- (2) **Mohd. Shahid Ansari** (father of the deceased)
S/o Sh. Mohd. Hussain

R/o E-49/195, J-Block, near Khazoor Wali Masjid,
Janta Mazdoor Colony, Delhi-110053.

.....**Petitioners**

Versus

- (i) **Rajbir Singh** (Driver)

S/o Sh. Daulat Ram

R/o 18/21. Chhajju Pur, Delhi-110032.

- (2) **Regional Manager** (Registered Owner)

UPSRTC, Ghaziabad,U.P.-201001.

.....**Respondents**

Date of institution : 03.01.2023

Final arguments concluded on : 24.03.2026

Date of Judgment : 24.03.2026

J U D G M E N T

1. The present claim petition under Section 166 of the 'Motor Vehicles Act, 1988' was filed by the claimants/ legal representatives of Mr.

Aamir (hereinafter, 'the **deceased**'), seeking compensation from the respondents on account fatal injury received by the deceased in a motor vehicular accident.

2. Briefly stated, the facts as per the claim petition and accompanied documents are that on 15.08.2022 at about 02:00 p.m. at Number 2 Market, Indirapuri, PS Loni Border, Ghaziabad, U.P., the deceased Aamir, aged 13 years, was crossing the road on foot to take some goods for his house. In the meantime, a bus of UPSRTC bearing registration number UP14DT-2059 (hereinafter, '**offending vehicle**') allegedly being driven by its driver at a high speed, rashly and negligently, came from Loni side and hit the deceased and, due to the result of the forceful impact, the deceased died on the spot. The police removed the deceased to MMG Hospital, Ghaziabad, where he was declared brought dead by the attending doctor and his postmortem was conducted vide postmortem report no.1202/22, dated 16.08.2022.
3. As per the claim petition, in connection with the accident, FIR no.571/2022, under sections 279/304A IPC, was registered at PS Loni Border on the same day of the accident on 15.08.2022 on the complaint of Mohd. Shahid, father of the deceased. As per investigation conducted by the police, at the time of the accident, the offending vehicle was being driven by respondent no.1 and owned by respondent no.2. After completion of the investigation, the charge-sheet was filed by the Investigating Officer against the respondent no.1 as an accused. It is stated in the claim petition that

the death of the deceased was caused due to rash and negligent driving of the offending vehicle by respondent no.1 and hence, the present claim petition. By filing the claim petition, the petitioners who are parents of the deceased, have prayed for compensation of Rs.20 lakhs along with interest @ 12% per annum from the date of filing of the claim petition till realization.

4. Notice of the claim petition was issued to both the respondents who appeared and were directed to file their replies/ written-statements, which were filed subsequently.
5. In the written-statement filed on behalf of the respondent no.1, it is stated that on 15.08.2022, the answering respondent was plying the bus bearing no. UP14DT-2059 (Sahibabad Depot) from Badaut to Loni at normal speed and correct side of the road by following the traffic rules and regulations and on that day, Sh. Anang Pal Singh was the conductor on the bus. It is stated that at about 02:00 p.m. when the bus reached near Indira Puri Police Chowki, a boy who was standing on the divider between the tree and plants, all of a sudden jumped from the divider in front of the bus to catch a kite and sustained injuries. It is stated that the alleged accident did not take place due to fault of the answering respondent and the answering respondent has been falsely implicated in this case.
6. Respondent no.2/ Regional Manager, UPSRTC, Ghaziabad has filed the identical reply taking the same contentions as that have been taken by the respondent no.1 in his written-statement.

7. Upon completion of the pleadings of the parties, vide order dated 04.09.2023, following issues were framed:

1. Whether respondent no.1 was driving the offending vehicle no. UP14DT-2059 on 15.08.2022 at about 02:00 p.m. at 02 Number Market, Indirapuri, within the jurisdiction of PS Loni Border, Ghaziabad, U.P. in rash and negligent manner and caused the death of the deceased Sh. Aamir? OPP
2. Whether petitioners are entitled to compensation on account of said accident and if yes, to what extent and from whom? OPP
3. Relief.

No other issue arose or pressed for and matter was adjourned for petitioner's evidence.

8. In order to establish their case, the petitioners examined the following witnesses:

(a) PW1 Bhoori, mother of the deceased testified on the strength of her affidavit Ex.PW1/A regarding the accident of the deceased and regarding the losses suffered as a result of the death of the deceased due to road accident. PW1 relied upon the following documents:

- (i) Death certificate of the deceased as Ex.PW1/1.
- (ii) Aadhaar Card of petitioner no.1 as Ex.PW1/2.
- (iii) Aadhaar Card of the deceased as Ex.PW1/3.
- (iv) Aadhaar Card of the petitioner no.2 as Ex.PW1/4 (objected to mode of proof).
- (v) Certified copies of the charge-sheet as Ex.PW1/5 (colly.-6 pages).

- (vi) Site plan as Ex.PW1/6 (colly.-2 pages).
 - (vii) Postmortem Report as Ex.PW1/7 (colly.-3 pages).
 - (viii) Certificate of *Upasthiti Praman Patra* of the driver as Ex.PW1/8 (colly.-2 pages).
 - (ix) Certified copy of bail order of driver as Ex.PW/9.
 - (x) Release order/ Superdarinama of the offending vehicle as Ex.PW1/10.
- (b) PW2 SI Pushpendra Singh was examined being Investigating Officer of the criminal case. He produced photocopy of the case diary as Ex.PW2/1 (colly).
9. On the other hand, respondents examined the following witnesses:
- (a) R1W1 Rajbir Singh, the respondent no.1/ driver of the offending vehicle deposed by way of his affidavit Ex.R1W1/A.
 - (b) R2W1 Anang Pal Singh, who was working as conductor on the offending bus on the date of accident deposed by way of his affidavit Ex.R2W1/A. In support of his identification, he produced his I.D. Card as Ex.R2W1/1 (OSR).
10. This Tribunal also examined Rajbir Singh, the respondent no.1 under Section 168 of BSA (Bhartiya Sakshya Adhinyam). He proved three photographs as Ex.CW1/A (colly) pertaining to the accident.
11. I have heard the final arguments advanced by learned counsels for the parties and also perused the evidence, written submissions and other materials placed on record. My findings on the issues are as under:-

ISSUE NO.1

Whether respondent no.1 was driving the offending vehicle no. UP14DT-2059 on 15.08.2022 at about 02:00 p.m. at 02 Number Market, Indirapuri, within the jurisdiction of PS Loni Border, Ghaziabad, U.P. in rash and negligent manner and caused the death of the deceased Sh. Aamir? OPP

12. It is settled proposition of law that, in an action founded on the principle of fault liability, the proof of rash and negligent driving of the offending vehicle is *sine-qua-non*. However, the standard of proof is not as strict as applied in criminal cases and evidence is to be tested on the touchstone of the preponderance of probabilities. A holistic view is to be taken while dealing with the Claim Petition based upon negligence. Strict rules of evidence are not applicable in an inquiry conducted by the Claims Tribunal. However, that does not mean that a Tribunal that has been approached with a claim for compensation under the Motor Vehicle Act should ignore all basic principles of law in determining the claim for compensation. The relevant provisions of the Act are not intended to jettison all principles of law relating to a claim for compensation, which is still based on a tortious liability. Reference may be made to the judgments titled as **New India Assurance Co. Ltd. v. Sakshi Bhutani & Others.**, MAC APP. No. 550/2011 decided on 02.07.2012; **Bimla Devi & Others v. Himachal Road Transport Corporation & Others** (2009) 13 SC 530; **Parmeshwari v. Amirchand & Others** 2011 (1) SCR 1096; **Mangla Ram v. Oriental Insurance Co. Ltd. & Others** 2018, Law Suit (SC) 303; & **Oriental Insurance Co. Ltd. v. Meena Variyal & Ors.**, (2007) 5 SCC 428.

13. In the case in hand, on behalf of the petitioners, only two witnesses have been examined. The first witness is PW1 Ms. Bhoori, who is the mother of the deceased. In her examination-in-chief which is by way of affidavit Ex.PW1/A, PW1 has given the mode and manner of accident, which is in consonance with the case as set up by the petitioners in the claim petition i.e. at the time of the accident the deceased was going on foot towards Indra Puri, No. 2 Market and the accident occurred when the deceased was trying to cross the road. However, in view of the admission of PW1 in her cross-examination that, *“I did not see the alleged accident with my own eyes”*, much credence cannot be placed upon what she has stated regarding the mode and manner of the accident. PW1 also stated in her cross-examination that the information regarding the accident was given to her by her younger son Irfan, who was going along with the deceased. PW1 denied the suggestion that the accident was caused because of the fact that for catching the kite, the deceased was standing on the divider between trees and plants and all of a sudden the deceased jumped in front of the offending vehicle to catch a kite.
14. It may be noted that the date of the accident was 15.08.2022 i.e. Independence Day, which is celebrated *inter-alia* by flying kites in which two persons flying kites try to cut the strings of the kites and the children run after the kite whose string is cut in order to catch it. The deposition of PW1 is not helpful for the Tribunal to reach a conclusion as to the rashness or negligence of respondent no.1 in driving the offending vehicle and causing the accident.

15. The second witness of the petitioners is the PW2 SI Pushpendra Singh, Investigating Officer, who after the completion of the investigation had filed the charge-sheet against the respondent no.1 as an accused. PW2 stated that there were many eye-witnesses to the accident, however, none came forward to join the investigation. The Tribunal put a query in order to know on the basis of which facts/evidence collected by the Investigating Officer, charge-sheet was filed by him. To the said query of the Tribunal, the response of the Investigating Officer was as follows:

“Court Q: On the basis of which fact/ evidence found by you in the investigation, you formed the opinion that respondent no.1 Rajbir Singh was rash and negligent in driving the offending vehicle, because of which the fatal accident was caused?

Answer: During the investigation, I found that the eye-witnesses informed that the speed of the offending vehicle was at higher side, keeping in view the place where the accident had happened being a thickly populated residential area.”

16. As per PW2, Investigating Officer, the rashness or negligence of respondent no.1 laid in the fact that the respondent no.1 was driving the offending vehicle at a speed that was on the higher side regarding which the Investigating Officer was informed by eye-witnesses to the accident. To check the veracity of what the Investigating Officer had replied to the query of the Tribunal, another query was put to PW2, which was:

“Court Q: Show the portion of case diary/ General Diary where the facts which you stated hereinabove are recorded?

Answer: The said facts have not been recorded in the case

diary/General diary.”

17. Under the provisions of Code of Criminal Procedure/ BNSS (Bhartiya Nagarik Suraksha Sanhita), every police officer making an investigation is duty bound to enter day by day proceedings of the investigation in a case diary, setting forth the time at which the information reached him, the time at which he began and closed his investigation, the place or places visited by him, and a statement of the circumstances ascertained through his investigation. In view of mandatory duty of the Investigating Officer to maintain a proper case diary, which PW2 did not maintain, it can be safely said that what the Investigating Officer as PW2 replied to the query put by the Tribunal where the facts that were invented by him were on the fly while deposing before the Tribunal. With respect to the speed of the offending vehicle at the time of the accident the Tribunal asked the Investigating Officer the following questions:

Court Q: The place where the accident happened, what was the permissible speed limit for driving a bus?

Answer: The permissible speed limit to drive the bus at the place where the accident happened was 50 kmph.

Court Q: At the time of the accident, what was the speed of the offending bus?

Answer: I do not have any idea as to what was the speed of the offending bus at the time of the accident.”

18. Assuming that the Investigating Officer was informed by various witnesses, who were present at the spot, that at the time of the accident the speed of the offending bus was high, then the Investigating Officer ought to have investigated as to the

approximate speed of the bus at the time of the accident with respect to the permissible limit as might have been set by the concerned authority to drive a vehicle on the said road so that the Tribunal could form the opinion whether or not the speed of the offending vehicle was such at the time of accident which could be said to be either rash or the negligent act of the driver of the offending vehicle. The Court of law or the Tribunal has to form its opinion on the basis of the facts that are proved during the trial/ inquiry proceedings. On the basis of opinion of the Investigating Officer, the Court/ Tribunal is incapable of forming its opinion regarding the rashness or negligence of the driver of the offending vehicle and by way of investigation, the Investigating Officer is supposed to collect the facts and verify its veracity and not the opinions of the witnesses. The law is applied to facts and not to the opinion and whether or not the respondent no.1 at the time of the accident was driving the offending vehicle rashly or negligently is a question of fact and not that of an opinion. Similarly, if anyone says that the offending vehicle was driven at a high speed, it does not assist the Tribunal in finding out the rashness or negligence of the driver.

19. Again assuming that the respondent no.1 was driving the offending vehicle at 'high speed', then it has to be ascertained whether there was the culpability of the respondent no.1 only in the causation of the accident in which the deceased lost his life.
20. Admittedly, the deceased was crossing the road and assuming that the deceased was crossing the road at a normal speed of walking

which is around 8 kilometers per hour (may be around 8 to 14 kilometers per hour depending upon the pace at which a person walks), in the site plan the width of the road has not been given but assuming it to be a 15 meters in width then the offending bus would be at a distance of 93.9 meters when the deceased would have started crossing the road and had the deceased looked towards the oncoming traffic, he would have very well seen the offending bus which was being driven at a high-speed, 'rashly and negligently' as it was a straight road. If the deceased would have seen the oncoming traffic, he would have definitely seen the offending bus coming towards him at a high-speed and in spite of it the deceased opted to cross the road from the place where there was no zebra crossing or any provision to cross the road and there was a divider of approximately one meter in length that the deceased had to jump, in such a situation it was the deceased who was rash in making an attempt to cross the road despite a high-speed bus coming towards him. If, before crossing the road, the deceased did not see towards the oncoming traffic and tried to cross the road, then the deceased was negligent and in either case it would have been the deceased whose rash or negligent act resulted in his accident.

21. In his examination-in-chief which is by way of affidavit Ex.R1W1/A, the respondent no.1 (R1W1) has deposed that on 15.08.2022, he was plying the offending vehicle from Baraut to Loni at normal speed, at correct side of the road, following traffic rules and regulations and at about 02:00 p.m., when the bus had reached near Indra Puri Police Chowki, a boy (the deceased) standing on the

divider between the trees and plants, all of a sudden jumped from the divider in front of the offending vehicle to catch kite and sustained injury. R1W1 stated that the accident did not take place due to the fault of his fault and he has been falsely implicated in the criminal case.

22. In cross-examination, the suggestion was put to the respondent no.1 by the learned counsel for the petitioners that at the time of the accident the deceased was cautiously crossing the road and that accident occurred because of the negligence and rashness of respondent no.1 in driving of the offending vehicle. The suggestion was declined and on this aspect much has already been said herein above.
23. When any person is falsely implicated in any case, such person is not required to make any complaint regarding it and no presumption can be made that if a person does not make a complaint regarding his false implication, then the case against the person is genuine. The best vindication of the false implication is the honourable acquittal from the Court of law and moreover, the cause of action for filing case for malicious prosecution arises from the acquittal in the false case and not from the filing of the false case against the person. Therefore, nothing in favour of the petitioners turned on admitting the suggestion by the respondent no.1 that he did not file any complaint regarding the false case foisted upon him by the police.
24. The respondent no.1 to the question by the Tribunal regarding the speed of the bus immediately before the accident, replied that at the

spot of accident because of the thickness of the crowd, it was impossible to drive the bus at more than 20 kilometers per hour speed and that he cannot see the deceased jumping from the bushes/tree present on the divider.

25. The respondent no.1 has also been examined by the Tribunal under section 168 of BSA (Bharatiya Sakshya Adhinyam) on 24.01.2026. One of the queries put by the Tribunal is as follows:

“Question: Immediately before the accident where the deceased child was?

Answer: The deceased child was trying to catch a kite and was running behind the kit (sic kite) on the opposite side of the road and in that process the child jumped over the divider which has bushes and came suddenly in front of the bus.”

26. In the cross-examination, respondent no.1 deposed that the deceased child had hit the bus from the driver side at the front of the offending bus. The place where the deceased had hit has been shown in red circle in the photograph no.3 Ex.CW1/A (colly) and respondent no.1 had admitted that the deceased child had hit the portion shown in red circle in the said photograph.
27. As per the site plan Ex.PW1/6, the bus was being driven in north to south direction and the driver’s side was adjacent to the divider. The deceased was crossing the road from east to west direction. The red circle in the photograph no.3 Ex.CW1/A (colly) is at the extreme right-hand side of the bus, which means that before the offending bus had hit the deceased, he had traveled the entire length of the bus,

which is corroborated by the photograph no.2 Ex.CW1/A (colly) in which the dead body of the deceased is shown to be lying adjacent to the divider in south to north position (the head of the deceased is at South). On average the width of the bus is 2 to 3 meters. In the present case, assuming the width of the offending bus was 2.5 meters, the speed of the bus has been assumed to be 50 kilometers per hour. The speed of the deceased while at the time of crossing the road is again assumed to be 8 kilometers per hour and the width of the road as 15 meters, then the deceased would have taken 6.76 seconds to cross the road and 1.13 seconds to cross the entire width of the bus i.e. 2.5 meters. It is highly unlikely that if the deceased had been crossing the road from east to west direction, he would have hit the red circle in photograph no.3 Ex.CW1/A (colly), rather in all probability, the deceased would have been crushed by the front tyre at conductor's side of the bus. The version as given in the claim petition/ FIR does not tally with the simple mathematics and position of the dead body of the deceased lying adjacent to divider and the point of impact on the offending vehicle. The point of impact on the offending vehicle makes sense with the version given by the respondent no.1 as to the reason of the accident, i.e., the deceased suddenly came in front of the bus from the divider side and it is highly probable that the version given by the respondent no.1 that the deceased was trying to catch a kite and jumped over the divider and came in front of the offending vehicle. It may be mentioned that the deposition of respondent no.1 finds corroboration from the deposition of R2W1, who was the conductor in the offending bus at the time of the accident.

28. One of the arguments of learned counsel for the petitioners is that as per the FIR that was registered regarding the accident, after the investigation, the charge-sheet has been filed which is sufficient proof of the fact that the driver of the offending vehicle was driving it rashly and negligently and that it was the offending vehicle that caused the accident in question. On the contrary, learned counsel for the respondents have argued that as the claim petition has been filed under section 166 of Motor Vehicles Act, therefore, the petitioners are required to prove on the balance of probability, the rashness and negligence in driving the offending vehicle by driver/ respondent no.1 which led to the accident and resultant death of the deceased. Learned counsel for the petitioners further argued that no witness has been examined who could have proved the rashness and negligence of the driver/ respondent no.2 and therefore, the claim petition is liable to be dismissed and that finding of the charge-sheet does not prove on the balance of probability that it was respondent no.1 who caused the accident of the deceased by driving the offending vehicle rashly or negligently.
29. Conclusive proof has been defined in the Evidence Act/ Bharatiya Sakshya Adhinyam as follows:

"Conclusive proof" means when one fact is declared by this Adhinyam to be conclusive proof of another, the Court shall, on proof of the one fact, regard the other as proved, and shall not allow evidence to be given for the purpose of disproving it."

30. Neither in the Motor Vehicles Act nor in any of the judgments of the Hon'ble Superior Courts, it has been stated that the filing of charge-sheet would be 'conclusive proof' of the fact that the driver of the offending vehicle with which the accident was caused was driving the offending vehicle rashly and negligently, in other words, if the charge-sheet has been filed, the petitioner is absolved from proving the rashness and/ or negligence in driving of the offending vehicle causing the accident. Also, it has not been provided under the provisions of the Motor Vehicles Act nor in any of the judgments of the Hon'ble Superior Courts that the Tribunal may presume the fact that the driver of the offending vehicle was driving that vehicle rashly and negligently which led to the accident on filing of the charge-sheet as proved on filing of the charge-sheet unless and until evidence is led by the opposite party to disprove the said presumption.
31. For argument's sake even if it is assumed that on filing of the charge-sheet the Tribunal could have presumed the fact of rashness and negligence of the driver in driving the offending vehicle and causing the accident even then as per the Evidence Act/ Bharatiya Sakshya Adhiniyam the Tribunal in its discretion could have called proof of the fact of rashness and negligence aliunde the fact of filing of the charge sheet by the Investigating Officer against the driver of the offending vehicle. Also, neither in the Motor Vehicles Act nor in any applicable Rules, it has been provided that by the fact of filing of the charge-sheet, the Tribunal shall presume the fact of rashness and negligence in driving the offending vehicle by the driver and the

presumptions shall be valid unless and until it is disproved by the respondents.

32. As per the Indian Evidence Act/ Bharatiya Sakshya Adhiniyam a fact (rashness and/ or negligence is not a fact but is an opinion that could be formed on the basis of facts) is said to be proved when after considering the matters before the Tribunal, the Tribunal either believes it to exist or considers its existence so probable that a prudent man ought, under the circumstances of the particular case to act upon the supposition that it exists.
33. The opinion with respect to whether the driver of the offending vehicle was driving rashly and negligently has to be drawn by the Tribunal on the basis of considering the matters before it. The Tribunal may have before it the copy of charge-sheet filed by the Investigating Officer against the driver before the concerned criminal Court. The Tribunal may after going through the contents of the charge-sheet come to a conclusion that on the balance of probability indeed it was the driver of the offending vehicle/ accused who was responsible for causing the accident leading to death/ injury or the loss of property of the third-party and decide the issue of rashness and negligence in driving the motor vehicle by the driver in favour of the petitioners if a prudent man under the circumstances of the particular case which is before the Tribunal would also act upon the said supposition. At the same time, the Tribunal would be within its discretion/ jurisdiction to decide the issue of rashness and negligence on the basis of charge-sheet against the petitioners. The Tribunal is

aware that the strict technical rules of Evidence Act/ Bharatiya Sakshya Adhinyam are not applicable in the enquiry proceedings, which are to be conducted under Chapter 12 of Motor Vehicles Act, but the definitions of conclusive proof, may presume, shall presume, proved, disproved etc. are so basic and germane in the enquiry proceedings, which are to be conducted by the Tribunal that these definitions could hardly be said to be the technical rules, rather these definitions are the fulcrum on which the enquiry proceedings are to be conducted by the Tribunal after all before the award could be passed the petitioners have to prove its case on the balance of probability.

34. In the case of **National Insurance Co. Ltd. vs Pushpa Rana 2009 ACJ 287 Delhi**, as well as many other judgments of the single bench of Hon'ble Delhi High Court's judgments it has been held that the filing of charge-sheet is sufficient proof of the negligence and involvement of the offending vehicle. However, in the judgment of the Single Bench of Hon'ble Delhi High Court in case of **New India Assurance Co. Ltd. v. Harsh Mishra; 2016 ACJ 2669**, it has been held that mere registration of criminal case/ filing of the charge-sheet is not enough to prove negligence on the touchstone of preponderance of probability and that every fact must be proved either by direct or indirect evidence. The Hon'ble Delhi High Court in **Harsh Mishra (supra)** has further held in paragraph 23 that:

23. In view of the above, the law laid down in *National Insurance Company Limited v. Pushpa Rana, 2009 ACJ 287* shall be confined to the facts of the said case and not be considered as a binding precedent.

35. On the same issue, whether filing of charge-sheet is the proof of negligence and involvement of the offending vehicle, the judgment of Hon'ble Supreme Court in **Mangla Ram v. Oriental Insurance Co. Ltd., (2018) 5 SCC 656**, which as a binding precedent has pre-eminence, in paragraph 27 has observed:

“27. Another reason which weighed with the High Court to interfere in the first appeal filed by Respondents 2 & 3, was absence of finding by the Tribunal about the factum of negligence of the driver of the subject jeep. Factually, this view is untenable. Our understanding of the analysis done by the Tribunal is to hold that Jeep No. RST 4701 was driven rashly and negligently by Respondent 2 when it collided with the motorcycle of the appellant leading to the accident. This can be discerned from the evidence of witnesses and the contents of the charge-sheet filed by the police, naming Respondent 2. This Court in a recent decision in *Dulcina Fernandes*, noted that the key of negligence on the part of the driver of the offending vehicle as set up by the claimants was required to be decided by the Tribunal on the touchstone of preponderance of probability and certainly not by standard of proof beyond reasonable doubt. Suffice it to observe that the exposition in the judgments already adverted to by us, filing of charge-sheet against Respondent 2 prima facie points towards his complicity in driving the vehicle negligently and rashly. Further, even when the accused were to be acquitted in the criminal case, this Court opined that the same may be of no effect on the assessment of the liability required in respect of motor accident cases by the Tribunal.”

36. In view of the ratio of the Hon'ble Supreme Court in **Mangla Ram (supra)**, if the charge-sheet has been filed against the driver of the offending vehicle that 'prima facie' points towards his complicity in driving the offending vehicle negligently and rashly. It may be noted that Hon'ble Supreme Court has not used the definitions of 'conclusive proof', 'may presume' or 'shall presume' as per Evidence

Act, rather has said 'prima facie' which is a Latin phrase that means at first view, on the first appearance.

37. 'Prima facie' also means on the face of it and what may appear on the face of anything may not be the same if it is analyzed in the light of the evidence or been examined in depth. On the analysis and examining the contents of the charge-sheet in the light of the evidence that is led in the claim petition, the Tribunal may either come to the conclusion that the driver of the offending vehicle was rash and negligent in driving the offending vehicle in causing the accident or may also come to a contrary opinion. Even, in a case where the driver of the offending vehicle is acquitted by the Criminal Court, the Tribunal on the basis of such fact cannot dismiss the claim petition holding that the driver of the offending vehicle was not rash and negligent in driving the offending vehicle but in the light of the evidence that may be led, the Tribunal has to come to its own conclusion regarding the rashness and negligence of the driver of the offending vehicle.
38. The Criminal Court can return the finding of guilty only when the prosecution is able to prove the charges beyond reasonable doubt. In the charges with reference to any offence under Indian Penal Code/ Bharatiya Nyaya Sanhita, requiring rash and/ or negligence as one of the ingredients of the offence with respect to use of motor vehicle, if the Criminal Court has held guilty, then the verdict of guilty could be taken at the discretion of the Tribunal as sufficient proof before the Claims Tribunal in an enquiry regarding the rash and negligent

driving of the driver of the offending vehicle. But in view of the judgment of the Hon'ble Supreme Court in **Mangla Ram (Supra)**, in case, the charge-sheet has been filed against the driver of the offending vehicle before the Criminal Court, that would only prima-facie indicate towards his complicity in driving the offending vehicle rashly and negligently and nothing more and nothing less. To come to a finding on the touchstone of preponderance of probability/balance of proof regarding the rash and negligent driving of the offending vehicle by the driver, the same has to be culled out/discerned from the evidence of the witnesses examined before the Claims Tribunal and the contents of the charge-sheet filed by the police which is one of the relevant pieces of evidence.

39. If a holistic view of the evidence as lead by the petitioners/respondents are taken into consideration by the Tribunal, the rashness and negligence of the driver of the offending vehicle/respondent no.1 has not been proved by the petitioners. Rather, it appears that on the balance of probability, it was the deceased himself who was rash and negligent in crossing the road.
40. The Hon'ble Supreme Court in the judgment titled as **Sithara N.S. & Ors. v. Sai Ram General Insurance Co. Ltd.**, CIVIL APPEAL Nos.14718-14719 of 2025, dated 12.12.2025, in paragraph 19 of the judgment has observed, “*...liability under the Motor Vehicles Act must be established through credible evidence.*” In the said case, the charge-sheet was filed in spite of that the Tribunal, Hon'ble High Court as well as the Hon'ble Supreme Court dismissed the claim

petition filed on behalf of the petitioners under section 166 of Motor Vehicles Act. Had filing of the charge-sheet sufficient to prove the rash and negligence of the driver of the offending vehicle in causing the accident 'in each and every case' then, the issue no.1 would not have been drafted as it has been drafted but rather the issue no.1 would have been, 'Whether the charge-sheet by the Investigating Officer in the FIR registered against the driver of the offending vehicle has been filed'. And if the answer of the issue no.1 would have been affirmative, the Tribunal would have been under no obligation to conduct any further inquiry except quantifying the quantum of compensation and would have allowed each and every claim petition in which the charge sheet would have been filed. It would have the effect of making the Tribunal slave to the opinion of the Investigating officer and denuding the power and jurisdiction of the Tribunal under section 165 of the Motor Vehicles Act.

41. In view of the discussion hereinabove, it is held that petitioners have not been able to establish, on the basis of the preponderance of probabilities, that the deceased had sustained fatal injuries in the present motor vehicular accident because of rash and negligent driving of offending vehicle by the driver/ respondent no.1. Issue no.1 is, accordingly, decided against the petitioners.

ISSUE NO.2

Whether the petitioners are entitled to compensation, if so, to what extent and from whom? (OPP)

42. As the issue no.1 has been decided against the petitioners, it is held

that the petitioners are not entitled for any compensation. Accordingly, issue no.2 is decided against the petitioners and in favour of the respondents.

43. The claim petition is, accordingly, dismissed. File be consigned to Record Room.

**Announced in the open
Court on 24.03.2026**

**(VIJAY KUMAR JHA)
Presiding Officer-MACT-01 (Shahdara)
Karkardooma, Delhi**