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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ MAC.APP. 126/2026, CM APPL. 9400/2026 & CM APPL.
9401/2026

THE NEW INDIA ASSURANCE CO. LTD.Appellant

Through: Mr. Himanshu Bhushan,
Advocate with Ms. Shagun
Srivastava, Advocate.

versus

NEERAJ DEVIRespondent

Through:

+ MAC.APP. 127/2026, CM APPL. 9468/2026 & CM APPL.
9469/2026

THE NEW INDIA ASSURANCE CO. LTD.Appellant

Through: Mr. Himanshu Bhushan,
Advocate with Ms. Shagun
Srivastava, Advocate

versus

ABDESH SINGHRespondent

Through:

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

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19.02.2026

1. These appeals have been filed against the common award dated 31st October 2025, passed by the Motor Accidents Claims Tribunal Central, Tis Hazari Court [*'MACT/Tribunal'*] in MACT no. 644 /2022 and MACT no. 232/2023 respectively.



2. The claims arose out of an accident which had occurred on 5th April 2022 at DND flyover near Mayur Vihar. The truck which was being driven by the deceased *Sachin Kumar* (driver of the victim vehicle) with passenger *Abdesh Singh*, was behind the offending vehicle/truck, which was being driven by respondent no.6, owned by respondent no. 7 and insured by appellant.

3. It was stated that the offending vehicle overtook and abruptly applied brakes allegedly due to the stoppage by the police and victim vehicle collided from the rear, resulting in the death of *Sachin Kumar* and the grievous injuries to *Abdesh Singh*.

4. Compensation of Rs. 43,35,886/- along with 7.5% interest was awarded in the case of the death of *Sachin Kumar*, whereas compensation of Rs. 7,08,541/- was awarded in the case of injury of *Abdesh Singh*.

5. The issue raised by *Mr. Himanshu Bhushan*, counsel for the Insurance Company, primarily relates to the determination of contributory negligence at 5% on the part of the deceased driver of the victim vehicle by the Tribunal

6. In this regard, the assessment made by MACT in *paragraph 14* of the Award has been laid emphasis on, which is extracted as under:

“14. It is true that the charge-sheet was filed against the driver of the truck but the testimony of eye-witness / R3W1 cannot be ignored, who is an independent witness and clearly stated that he could not comment whether the accident took place solely due to negligence of offending trolla truck. He clearly stated that he could not notice the speed of victim vehicle at the time of accident or prior to it. It is strange that



R3W1 stated that he had not noticed if offending vehicle was being driven on the correct side of the lane at the time when it was gestured by police officials to be stopped. A suggestion was put to him on behalf of R-1 and R-2 that he was well aware that offending vehicle was being driven on the correct side of the lane. There is no evidence on record to suggest that offending vehicle was driven in wrong lane. R3W1 admitted that the offending vehicle was a loaded vehicle and such vehicle are driven at low speed only. Even though, he stated that he could not comment on the speed of offending vehicle and victim vehicle being at high speed, in the absence of anything to the contrary, it can be deduced that the offending vehicle was at a moderate speed. PW2 did not disclose the speed of offending vehicle and even in his affidavit Ex.PW2/1, he did not state a word to suggest that offending vehicle was at high speed. PW2 took up the plea of offending vehicle having overtaken the victim vehicle but no such version has come in the FIR and the testimony of independent eye witness R3W1 and further the allegation put next by PW2 in the same line to the effect that the victim vehicle was hit from backside by offending vehicle is not substantiated. Further, there is nothing in the testimony of PW-2 to suggest that emergency brake were applied by Sachin Kumar, when the vehicle in front applied sudden brakes. Had the deceased Mr. Sachin Kumar been cautious enough to observe the vehicle in front stopping suddenly and maintained safe distance, there would have been sufficient time at least to minimize the impact of collision, even if the accident could not be averted by him. Victim vehicle was moving at the speed of 50 kmph as per hour the testimony of PW-2 and from the extent of damage to the victim vehicle, it can be said that sufficient caution on the part of late Sachin Kumar was not taken and had there been sufficient distance between the two vehicles, Sachin Kumar would have had time to at least avoid extensive



damage, if not the collision. In the totality of facts and circumstances and discussion above-said, it can be safely concluded that the accident took place mainly due to negligence on the part of R1, who put sudden brakes on his vehicle. However, It is clear that there was no proper distance maintained between the two vehicles and hence, some contributory negligence on the part of the victim vehicle can be seen. There was sufficient time for Sachin Kumar to take steps to avert the collision or further to minimize its impact. Hence, contributory negligence on the part of Late Sh. Sachin Kumar is taken to be 5%.”

7. On this basis, he states that, despite there being no evidence to show that the offending vehicle was in the wrong lane or was at a high speed, nor any reason why the deceased driver of the victim vehicle ought to have applied emergency brakes or maintained a safe distance, the element of contributory negligence ought to have been assessed at a much higher.
8. Accordingly, issue notice to the respondents on steps being taken by appellant through all permissible modes, including e-mail.
9. Counsels for parties will file their respective note of arguments not exceeding *three pages*, synopsisizing their contentions along with *list of citations*, which they wish to rely upon, cross-referencing *PDF pages* of the Court File. The same will be exchanged *inter se* counsels *at least three days* prior to the next date of hearing.
10. Trial Court Record be also requisitioned and placed on record. Digital copy of the same be supplied to the counsels for the parties, if so requested.
11. *Mr. Bhushan* states that the deposit has already been done before



the MACT.

12. Aside from the lump sum amounts which have been directed to be released [a sum of Rs. 11,35,886/- was released in favour of Smt. Neeraj Devi, wife of the deceased, and a sum of Rs. 5,08,541/- in favour of *Abdesh Singh*-injured] by the MACT, by the impugned award, 60% of the deposited amount will be released to the claimant within two weeks in terms of the Scheme which has been slated by MACT award.
13. The balance amount be kept in an interest-bearing FDR on an auto-renewal mode and will be subject to the further orders of the Court.
14. List on 19th March 2026 before the Joint Registrar (Judicial).
15. List before the Court on 29th July 2026.
16. Order be uploaded on the website of this Court.

ANISH DAYAL, J

FEBRUARY 19, 2026/RK/bp