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

**%** ***Date of decision: 03rd August 2026***

\+ **CM(M) 2679/2024 & CM APPL. 32241/2024**

HAR DEVI .....Petitioner

Through: Mr. Lohit Ganguly, Advocate.

versus

THE NEW INDIA ASSURANCE CO. LTD & ORS. .....Respondents

Through: Mr. JPN Shahi, Advocate for R-1.

**CORAM:**
**HON'BLE MR. JUSTICE ANISH DAYAL**

**JUDGMENT**

**ANISH DAYAL, J (ORAL)**

1. The petitioner, mother of the deceased/*Ranjeet*, assails the impugned order dated 19th April 2023 passed by the Motor Accidents Claims Tribunal ('***MACT/Tribunal***')-02 Central District Tis Hazari Courts, in MACT 460/2022.

2. *Mr. Lohit Ganguly*, counsel, appears for petitioner and *Mr. JPN Shahi*, counsel, appears for respondent no.1/ Insurance Company.

3. The matter relates to an accident which occurred on 06th October 2021, when a scooter driven by *Pulkit* with *Ranjeet* as the pillion rider, collided with a truck *bearing no. DL-1 MA- 2953*, resulting in death of *Ranjeet*.

4. On the basis of a Detailed Accident Report ('***DAR***'), proceedings before the MACT were commenced under MACT No. 460/2022.

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5. The DAR sought to implicate only *Pulkit,* driver of the scooter, alleging that the accident occurred due to his rash and negligent action. It arrayed the owner of the scooter as a respondent.

6. An application was filed by petitioner (*mother of the deceased/Ranjeet*) under *Order I Rule 10* of Code of Civil Procedure, 1908 ('***CPC***'), seeking the impleadment of the driver, owner, and insurer of the truck bearing registration No. DL-1MA-2953, on the ground that the present case involves a head-on collision and, therefore, the possibility of composite negligence cannot be ruled out.

7. This application was dismissed by the impugned order stating that, as per the investigation by the police, the accident is attributable to the scooter driver/*Pulkit*. The investigation of police had exonerated the driver of the truck based on the eyewitness account given by the '*helper*' employed on the truck.

8. In deciding the *Order I Rule 10* CPC application, the MACT relies upon the charge-sheet and the criminal proceedings in order to reach a conclusion that no case of composite negligence is made out.

9. *Mr. Ganguly*, relies upon Supreme Court's decision in ***T.O. Anthony v. Karvarnan,*** (2008) 3 SCC 748, in particular, *paragraph 6* which is given as under:

> "***6.*** *"Composite negligence" refers to the negligence on the part of two or more persons. Where a person is injured as a result of negligence on the part of two or more wrongdoers, it is said that the person was injured on account of the composite negligence of those wrongdoers. In such a case, each wrongdoer is jointly and severally liable to the injured for payment of the entire damages and the injured person has the choice*

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> *of proceeding against all or any of them. In such a case, the injured need not establish the extent of responsibility of each wrongdoer separately, nor is it necessary for the court to determine the extent of liability of each wrongdoer separately. On the other hand where a person suffers injury, partly due to the negligence on the part of another person or persons, and partly as a result of his own negligence, then the negligence on the part of the injured which contributed to the accident is referred to as his contributory negligence. Where the injured is guilty of some negligence, his claim for damages is not defeated merely by reason of the negligence on his part but the damages recoverable by him in respect of the injuries stand reduced in proportion to his contributory negligence.*"

10. *Mr. JPN Shahi*, counsel for respondent no.1, objects to the plea on the basis that Insurance Company should not face a trial in these circumstances, particularly when the criminal proceedings, and the DAR does not implicate the driver and owner of the truck.

11. By order dated 28th May 2024, when the Court issued notice in the matter, the proceedings before the Tribunal were directed to remain in abeyance.

12. In the opinion of this Court, there is no reason why the Legal Representatives ('***LRs***') of a deceased victim in a fatal accident should be non-suited and denied an opportunity to lead evidence and examine the driver, owner, and insurer of the truck, particularly in a case involving a head-on collision.

13. In the absence of substantive evidence and a proper appreciation of the same, the MACT could not have reached a conclusion, on the touchstone

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of the preponderance of probabilities, that the negligence was solely attributable to the scooter driver.

14. The petitioner ought to be afforded an opportunity to cross-examine the witnesses, including the eyewitness, the '*helper*' employed on the truck, whose statement has been treated as conclusive by the MACT

15. In these circumstances, the impugned order is set aside, the MACT is directed to restart the inquiry proceedings in accordance with law.

16. It is clarified that the LRs of the scooter driver, *Pulkit* (*who has since passed away*), as well as the driver, owner, and insurer of the truck, shall be impleaded as parties before the MACT. MACT shall thereafter undertake a proper adjudication of the issue in accordance with law.

17. List before the MACT on the date already fixed.

18. It is made clear that this Court has not expressed any opinion on the merits of the matter and has confined itself solely to the issue of whether the petitioner ought to have been non-suited at such an early stage of the proceedings.

19. Accordingly, petition is disposed of. Pending applications (if any) are rendered infructuous.

20. Order be uploaded on the website of this Court.

**ANISH DAYAL, J**

**AUGUST 3, 2026/RK/***zb*

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