



2026:DHC:7881



* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Reserved on : 10th September 2026*
Pronounced on : 17th September 2026
Uploaded on : 18th September 2026

+ MAC.APP. 439/2025 & CM APPL. 42103/2025

HITESH SINGHAppellant

versus

RAVIRespondent

+ MAC.APP. 443/2025, CM APPL. 42577/2025, CM APPL. 42578/2025 & CM APPL. 43199/2026

HITESH SINGHAppellant

versus

SHASHIRespondent

+ MAC.APP. 680/2025, CM APPL. 66432/2025 CM APPL. 66433/2025

HITESH SINGHAppellant

versus

LILAWATIRespondent

Appearance : Mr. HGR Khattar & Mr. Gaurav Kumar
Advocates for appellant Hitesh Singh

Mr. Anil Pruthi, Ms. Rachna & Mr. Dinesh,
Advocates for respondents / claimants in all
three appeals.

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT



ANISH DAYAL, J.

1. These appeals have been filed by the owner of the offending vehicle, which was involved in an accident that occurred on 23rd April 2019 at about 03:30 a.m., when the offending vehicle collided with a scooter being driven by one *Ravi*, on which *Smt. Lilawati*, his mother, and *Smt. Shashi*, his sister, were riding as pillion riders. When they reached in front of the *Oberoi Maidens Hotel*, they were hit by the offending vehicle, *i.e.* bus bearing registration no. HR 69 C 5953, of which the appellant is the registered owner.

2. Three claim petitions were filed in respect of the injuries sustained in the accident and were decided by the Tribunal, namely, ***MACT No.955/2019***, in case of *Sh. Ravi*, whereby compensation of Rs.54,234/- along with interest @ 9% *per annum* was awarded; ***MACT No.954/2019***, in case of *Smt. Shashi*, whereby compensation of Rs.14,10,589/- along with interest @ 9% *per annum* was awarded; and ***MACT No.953/2019***, in case of injured *Smt. Lilawati*, whereby compensation of Rs.2,36,404/- along with interest @ 9% *per annum* was awarded.

3. FIR 78/2019 was registered at PS Civil Lines which resulted in a charge-sheet being filed against the driver and owner of the offending vehicle.

Submission of Counsels

4. The owner, as confirmed by counsel for appellant, pleaded guilty in the said proceedings. It is, however, stated by counsel that the plea of guilt was entered to avoid further implication and the charge relating to



possession of a duplicate insurance copy, which was allegedly not genuine.

5. *Mr. H R Khattar*, counsel for appellant, therefore, contends that the mere fact that the accused pleaded guilty and was convicted cannot have any bearing on the MACT proceedings, where the appellant is entitled to contend that negligence on the part of the driver of the offending vehicle was not proved.

6. *Mr. Anil Pruthi*, Advocate, appears on behalf of claimants and has instead relied upon the criminal proceedings as well as the evidence which was placed before the MACT in this regard.

7. In order to press his point regarding irrelevancy of the conviction, *Mr. Khattar* relied upon the following judgments:

a. *N.K.V. Bros. (P) Ltd. v. M. Karumai Ammal*, (1980) 3 SCC 457, where the Supreme Court stated “*the plea that the criminal case had ended in acquittal and, therefore, the civil suit must follow suit was rejected rightly. The requirement of culpable rashness under Section 304A IPC is more drastic than negligence sufficient under the law of tort to create liability*”.

b. *Mathew Alexander v. Mohd. Shafi*, (2023) 13 SCC 510 which relied upon decision of Supreme Court in *N.K.V. Bros. (supra)*

c. *Bimla Devi v. Himachal RTC*, (2009) 13 SCC 530, to observe that negligence has to be established on the touchstone of preponderance of probabilities.

d. *Ganesh Achar v. United India Insurance Co. Ltd.*, 2023 SCC OnLine Kar 1627 wherein the Single Judge of the Karnataka



High Court observed that mere acceptance of guilt cannot, by itself, be a ground for the MACT to arrive at a finding of negligence in a claim petition under Section 166 of the Motor Vehicles Act, 1988, where the claimant is required to establish the case on the basis of independent evidence.

e. ***Divisional Manager, National Insurance Co. Ltd. v. Raj Kishore Jethy***, 1997 SCC OnLine Ori 24, a decision by Single Judge of the High Court of Orissa, wherein, in a case involving an offending vehicle being driven by a minor, it was held that the Tribunal had erred in fastening liability upon the insurance company towards payment of no-fault compensation.

8. *Mr. Khattar* further contends that, in their testimony, all three injured claimants admitted that the scooter on which they were travelling was being driven on the left side of the road and that they were triple-riding. It was also admitted that *Ravi*, who was driving the scooter, did not possess a driving licence. It came out in the testimony that the scooter belonged to the brother of *Ravi*. He, therefore, contends that negligence ought to be fastened upon the owner of the scooter, who had handed over the vehicle to his younger brother, *Ravi*, despite the latter not possessing a driving licence, and that the owner of the scooter alone should be liable to pay the compensation. For this proposition, he relies upon the decision in ***New India Assurance Co Ltd. v. Bibi Nafisa***, 2024 SCC OnLine Kar 15717 rendered by Single Judge of Karnataka High Court.

Analysis

9. The decision in ***Bibi Nafisa*** (*supra*) however, is clearly distinguishable. The case involved a two-wheeler which was being driven



in a rash and negligent manner and had dashed against the deceased, who sustained grievous injuries and subsequently succumbed thereto. The two-wheeler was being driven by a 16-year-old boy who, being a minor, did not possess a driving licence. The insurance company consequently sought its exoneration from liability. The claimants, on the other hand, pleaded that, at the very least, an order of pay and recovery could be passed on the basis of the judgments of the Supreme Court.

10. However, the Single Judge distinguished the judgment of pay and recover on the ground that they concerned drivers who were majors but did not possess valid driving licences, whereas the case before the Court involved a minor. It was observed that a minor aged 16 years was not a qualified person to apply for a driving licence and, therefore, the principle of pay and recovery was not applicable. Liability for payment of compensation was consequently fastened upon the owner of the motorcycle, who had handed over the vehicle to the minor, and the award of the Tribunal fastening liability upon the insurance company was set aside. The facts in **Bibi Nafisa** (*supra*) are entirely different, as in that case the offending vehicle itself was being driven by a minor. The decision of the Karnataka High Court in **Bibi Nafisa** (*supra*) has already been challenged before the Supreme Court in Special Leave Petition Nos. 27697-98, wherein notice has been issued as to why the insurance company should not be directed to pay the compensation and recover the same from the owner. The matter is presently pending.

11. This Court does not resonate with the view taken by the Karnataka High Court in this regard, in view of the various other judgments on the subject. However, that is not the issue before this Court. The issue arising



in the present case, on the basis of the submission of *Mr. Khattar*, is materially different. *Mr. Khattar* appears to contend that the scooter being driven by an unlicensed driver, ought to be treated as being solely negligent and that the compensation ought consequently to be recovered from the owner of the scooter, who was negligent in handing over the vehicle to his younger brother.

12. **Firstly**, this plea is untenable for the reason that the owner of the scooter would be liable only if it is established that the driver of the scooter was negligent and that such negligence contributed to the accident. **Secondly**, no such case was established by the driver or owner of the offending vehicle before the MACT, as no evidence was led by them.

13. In any event, even if it were found that the driver of the scooter was driving without a valid driving licence, that fact by itself would not lead to a finding of contributory negligence unless the same is established by cogent evidence. In this regard, *Mr. Pruthi* places reliance upon *Saraswati Palariya v. New India Assurance Co. Ltd.*, 2018 SCC OnLine SC 3988, wherein the Supreme Court held that the finding of contributory negligence recorded by the High Court merely on the ground that the deceased was driving the vehicle without a driving licence was unsustainable. Driving without a driving licence may expose a person to other liabilities, but no inference of contributory negligence can be drawn on that basis alone. This principle has also been followed by a Coordinate Bench of this Court in *Saleem Ahmed v. Jaipal*, 2024:DHC:9760. The Court, therefore, has to examine whether negligence on the part of the offending vehicle was established from the facts and circumstances of the present case.

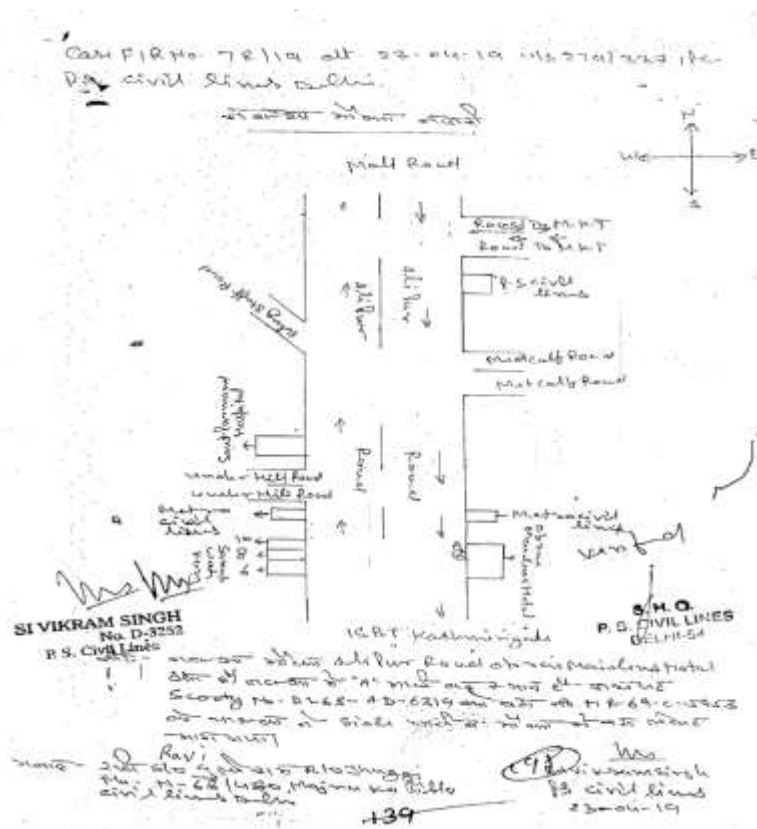


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14. It is an admitted position that neither the owner nor the driver chose to testify before the MACT, only a written statement was filed. It is noted that the MACT had given an opportunity for respondents' evidence on 24th February 2025. On 19th March 2025, the counsel stated that the respondent no.1 was not in contact with him and he tried to reach out but he has not been contacted nor has appeared before the Tribunal. Respondent no.1 was, therefore, proceed *ex parte* and the respondents' evidence was closed. No steps were taken by the respondent/driver/owner to approach the MACT in order to led evidence nor has any explanation been given by the counsel for appellant.

15. On the issue of negligence, whether the same has been established or not, the following aspects are required to be noted. The site plan is extracted below for reference:





16. It can be seen from the site plan that, in front of the *Oberoi Maidens Hotel*, the collision took place at point A, which is situated on the extreme left side of the road. This would indicate that the scooter was being driven on the extreme left side of the road and cannot, therefore, be faulted considering its position on the road being as per rules of road usage. It is not a case where the scooter was being driven on the right side / middle of the road, or in the fast lane. For the bus to collide with the scooter, which, in any event, could not possibly have been travelling at a high speed, considering that three persons were riding on it, clearly points towards negligence on the part of the bus driver.

17. Moreover, the mechanical inspection report of the scooter records damage to its right side, whereas the mechanical inspection report of the bus records damage to its left side. This clearly indicates that the bus was on the right side of the scooter at the time of the collision. None of these circumstances suggest any negligence on the part of the scooter driver. On the contrary, they support the conclusion that the bus driver was at fault. Apart from this, the submission of *Mr. Pruthi* also assumes relevance, though it cannot by itself be determinative, that appellant had chosen to plead guilty in the criminal proceedings and had not contested the said proceedings.

Contributory Negligence

18. This Court has considered the Supreme Court's decision in *Mohd. Siddique v. National Insurance Co. Ltd.*, (2020) 3 SCC 57 where it was held that triple riding a motorcycle, does not by itself makes a person guilty of contributory negligence but only guilty of violation of law. There



has to be a causal connection between the violation and the accident. The relevant paragraph of judgment is extracted as under:

“12. But the above reason, in our view, is flawed. The fact that the deceased was riding on a motorcycle along with the driver and another, may not, by itself, without anything more, make him guilty of contributory negligence. At the most, it would make him guilty of being a party to the violation of the law. Section 128 of the Motor Vehicles Act, 1988, imposes a restriction on the driver of a two-wheeled motorcycle, not to carry more than one person on the motorcycle. Section 194-C, inserted by Amendment Act 32 of 2019, prescribes a penalty for violation of safety measures for motorcycle drivers and pillion riders. Therefore, the fact that a person was a pillion rider on a motorcycle along with the driver and one more person on the pillion, may be a violation of the law. But such violation by itself, without anything more, cannot lead to a finding of contributory negligence, unless it is established that his very act of riding along with two others, contributed either to the accident or to the impact of the accident upon the victim. There must either be a causal connection between the violation and the accident or a causal connection between the violation and the impact of the accident upon the victim. It may so happen at times, that the accident could have been averted or the injuries sustained could have been of a lesser degree, if there had been no violation of the law by the victim. What could otherwise have resulted in a simple injury, might have resulted in a grievous injury or even death due to the violation of the law by the victim. It is in such cases, where, but for the violation of the law, either the accident could have been averted or the impact could have been minimised, that the principle of contributory negligence could be invoked. It is not the case of the insurer that the accident itself occurred as a result of three persons riding on a motorcycle. It is not even the case of the insurer that the accident would have been



averted, if three persons were not riding on the motorcycle. The fact that the motorcycle was hit by the car from behind, is admitted. Interestingly, the finding recorded by the Tribunal that the deceased was wearing a helmet and that the deceased was knocked down after the car hit the motorcycle from behind, are all not assailed. Therefore, the finding of the High Court that 2 persons on the pillion of the motorcycle, could have added to the imbalance, is nothing but presumptuous and is not based either upon pleading or upon the evidence on record. Nothing was extracted from PW 3 to the effect that 2 persons on the pillion added to the imbalance.

13. Therefore, in the absence of any evidence to show that the wrongful act on the part of the deceased victim contributed either to the accident or to the nature of the injuries sustained, the victim could not have been held guilty of contributory negligence. Hence, the reduction of 10% towards contributory negligence, is clearly unjustified and the same has to be set aside.”

(emphasis supplied)

19. For contributory negligence to be established, the same must first be specifically alleged and thereafter proved. In the present case, however, neither the driver nor the owner took any such position before the MACT, nor did they lead any evidence whatsoever in support thereof.

20. On the issue of contributory negligence arising from the victim not possessing a valid driving licence, this Court in ***Reliance General Insurance Co. Ltd v Smt. Kusum and Ors.*** 2026:DHC:6915 has considered the said issue. The relevant paragraph of the judgment, which traverses the law on the subject, is extracted below:

“9. As regards the issue of contributory negligence and whether victim not having a DL can be ground of attributing contributory negligence, the following judgments can be relied upon:



- (i) *Sudhir Kumar Rana v. Surinder Singh*, (2008) 12 SCC 436, wherein the Supreme Court while deciding the issue of contributory negligence of a minor, who did not possess driving license, held as under:

“9. If a person drives a vehicle without a licence, he commits an offence. The same, by itself, in our opinion, may not lead to a finding of negligence as regards the accident. It has been held by the courts below that it was the driver of the mini truck who was driving rashly and negligently. It is one thing to say that the appellant was not possessing any licence but no finding of fact has been arrived at that he was driving the two-wheeler rashly and negligently. If he was not driving rashly and negligently which contributed to the accident, we fail to see as to how, only because he was not having a licence, he would be held to be guilty of contributory negligence.

10. The matter might have been different if by reason of his rash and negligent driving, the accident had taken place.”

(emphasis supplied)

- (ii) *Dinesh Kumar v. National Insurance Co. Ltd.*, (2018) 1 SCC 750, relied on the judgment of *Sudhir Kumar Rana* (supra) and held as under:

“7. Once the finding that there was contributory negligence on the part of the appellant is held to be without any basis, the second aspect which weighed both with the Tribunal and the High Court, that the appellant had not produced the driving licence, would be of no relevance. This aspect has been considered in a judgment of this Court in *Sudhir Kumar [Sudhir Kumar Rana v. Surinder Singh*, (2008) 12 SCC 436 : (2009) 1 SCC (Cri) 443] where it was held as follows : (SCC p. 439, paras 9-10)



...

8. In view of the above position, we are of the view that the deduction of forty per cent which was made on the ground of contributory negligence is without any basis. Accordingly, we direct that the appellant shall be entitled to an additional amount of Rs 4.60 lakhs which was wrongly disallowed.”

(emphasis supplied)

(iii) *Saraswati Palariya v. New India Assurance Co. Ltd.*, 2018 SCC OnLine SC 3988, the Supreme Court held as under:

“5. The finding of the High Court of contributory negligence on the ground that the deceased was driving the vehicle without a driving license is equally unsustainable. Driving without a valid driving license may expose the claimant(s) to other liabilities but no inference of contributory negligence can be arrived on that basis.”

(emphasis supplied)

(iv) *Srikrishna Kanta Singh v The Oriental Insurance Co. Ltd. & Ors.* 2025 INSC 394, wherein the Supreme Court while deciding the case of a scooter driver only possessing a learner license relied on the judgment of Sudhir Kumar Rana (*supra*) and held as under:

“13. *Sudhir Kumar Rana v. Surinder Singh* was a case in which the claimant, a minor of 17½ years, met with an accident while riding a two wheeler, which collided with a mini truck. Holding that ordinarily, negligence is only a question of fact, it was found that when a person drives a vehicle without a licence, he commits an offence, which by itself cannot lead to a finding of negligence, leading to or as regards, the accident. Having found the trailer to be driven rashly and negligently, we do not think that the mere fact that the driver of the scooter had only



a learners licence would necessarily lead to a conclusion of contributory negligence on the part of the scooter driver.”

(emphasis supplied)

- (v) *Mohd. Sabuddin v. Mohd. Zakir*, 2024 SCC OnLine Del 7159, a Coordinate Bench of this Court noted as under:

“41. This Court has perused the record and found that no driving licence or insurance of the claimant's vehicle were placed on record. Therefore, applying the aforementioned case laws *Mohd. Siddique v. National Insurance Co. Ltd.* as well as *Sudhir Kumar Rana v. Surinder Singh*, this Court is of the view that mere absence of driving licence and vehicular insurance does not amount to contributory negligence on the part of the claimant despite being a punishable offence under the Motor Vehicles Act, 1988 as the same has no impact on the accident and the grievous injuries caused to the claimant.”

(emphasis supplied)

10. It is also noted that *Sudhir Kumar Rana (supra)* and *Saraswati Palariya (supra)* have consistently been followed by this Court as well as by other High Courts in a catena of judgments namely, *National Insurance Co. Ltd. v. Sushila*, 2019 SCC OnLine Del 10045; *Mohd. Sabuddin (supra)*; *Saleem Ahmad v. Jaypal*, 2024:DHC:976; *United India Insurance Company Ltd. v Smt. Sobhana & Ors.*, 2026:DHC:1653; *Shivegowda v. Nanjeshgowda*, 2025 SCC OnLine Kar 14720; and, *Jacob v Santo K.T. & Ors.* 2026:KER:28270.

11. Having considered the aforesaid judgments, the legal position that emerges is that contributory negligence cannot be inferred merely from the violation of a statutory requirement by the victim. The essential requirement is to establish a causal connection between the act or omission attributed to the victim and either the occurrence of the accident or the nature and extent



of the injuries suffered. The burden of establishing such contributory negligence lies upon the party alleging it, and such finding must be supported by cogent evidence rather than conjecture or presumption. Thus, the mere absence of a driving licence, possession of an invalid or learner's licence, or any other violation of the Motor Vehicles Act, 1988, may constitute a statutory infraction, but cannot, by itself, justify a deduction from compensation."

(emphasis supplied)

21. Moreover, in the same judgment, the Court had culled out the principles as regards contributory negligence which are also extracted below for ease of reference:

"15. The following principles as regards contributory negligence can be culled out from the aforementioned judgments:

I. Contributory negligence requires proof of negligence on the part of the victim which has materially contributed to the accident or the resulting injury.

II. The determination of contributory negligence is essentially dependent upon the facts and circumstances of each case. The relevant test is whether, by exercising reasonable care, the victim could have avoided the consequences of the negligence which caused the accident.

III. A mere violation of law by the victim does not, by itself, constitute contributory negligence. There must be a causal connection between such violation and either the occurrence of the accident or the impact/injury suffered by the victim.

IV. The burden of establishing contributory negligence lies upon the party alleging it. Such negligence must be established by cogent material demonstrating that an act or omission attributable to the claimant/victim materially contributed to the accident or the injury suffered.



V. The mere absence, invalidity, non-production of a driving licence, or possession of only a learner's licence, by itself, do not constitute contributory negligence. Such violation may entail statutory consequences, but a finding of contributory negligence can be made only where it is established by cogent evidence that such violation has a causal connection with the occurrence of the accident or the injuries suffered by the victim.

VI. Where negligence is attributable to both parties, the Court may apportion the loss between them in such proportion as is just and equitable. However, such apportionment necessarily presupposes a finding of contributory negligence on the part of the claimant; in its absence, no deduction from compensation is warranted.

(emphasis supplied)

22. In view of the position of law as noted above, the plea of the Insurance Company on the issue of contributory negligence is unsustainable.

Compensation for Medical Expenses

23. In **MACT No. 953/2019**, *Smt. Lilawati* was awarded compensation of Rs. 3,000/- towards medical expenses. In **MACT No. 954/2019**, *Smt. Shashi* was awarded Rs. 5,000/- towards medical expenses, while in **MACT No. 955/2019**, *Sh. Ravi* was awarded Rs. 2,000/- under the same head. The MACT has noted, in all three cases, that no medical bills or other documents evidencing the expenditure incurred towards treatment were placed on record. The MACT, nevertheless, observed that injured persons may not always preserve or produce bills relating to their treatment and, accordingly, awarded nominal amounts towards medical



expenses, having regard to the injuries suffered by the respective claimants.

24. In the case of *Smt. Lilawati*, the MACT has recorded that she suffered grievous injuries. It is, therefore, reasonable to assume that some expenditure would have been incurred towards her treatment and medicines. The award of a nominal sum of Rs. 3,000/- towards medical expenses, in the facts and circumstances of the case, cannot be said to be excessive or unreasonable. Similarly, *Sh. Ravi* suffered simple injuries, as recorded in the MACT award, and the award of Rs. 2,000/- towards medical expenses is also a reasonable and nominal amount. In the case of *Smt. Shashi*, who sustained 25% functional disability, the MACT awarded Rs. 5,000/- towards medical expenses. Having regard to the nature and extent of the injuries suffered, the said amount is also reasonable and does not warrant interference by this Court. The nominal amounts awarded by the MACT towards medical expenses are, thus, consistent with the principles of just and reasonable compensation.

Directions

25. Since these appeals are dismissed, the compensation as awarded by the MACT, along with accrued interest thereon, if not already deposited, shall be deposited before the MACT within a period of four weeks from the date of this judgment. The compensation, along with accrued interest, shall thereafter be released to the claimants in all three appeals in accordance with the scheme set out by the MACT in the impugned award.

26. Accordingly, the appeals are dismissed.

27. Pending applications, if any, are rendered infructuous.



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28. Statutory deposit be refunded to appellant/Insurance Company, only if the order of deposit has been complied with.
29. A copy of this judgment be sent to the concerned bank for information and compliance.
30. Judgment be uploaded on the website of this Court.

**ANISH DAYAL
(JUDGE)**

SEPTEMBER 17, 2026/sm/zb