



2026:DHC:6895



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of decision: 19th August 2026

CNR No. DLHC010186432023

+ MAC.APP. 259/2023

SH. HARI NATH SHARMA

.....Appellant

Through: Mr. Raghav Vij, Mr. Suraj Kumar Jha, Mr. Mehul Prasad, Mr. Ritul Sharma, Ms. Sakshi Tiwari, Mr. Pratham Malik, Ms. Vanshika Kapoor, Advocates.

versus

SH. UMESH KUMAR & ORS.

.....Respondents

Through: Mr. A.K. Soni, Advocate for Respondent no.3/ Insurance Company.

CORAM:**HON'BLE MR. JUSTICE ANISH DAYAL****JUDGMENT****ANISH DAYAL, J (ORAL)**

1. This appeal has been filed by appellant/injured assailing impugned award dated 22nd October 2022, passed by the Motor Accident Claims Tribunal, Central District, Tis Hazari Courts, Delhi [*‘MACT/Tribunal’*] in *MACT No.134/2020* [*‘impugned award’*].

2. *Vide* impugned award, compensation of Rs.1,71,350/- was initially awarded to the appellant/injured; however, said amount was reduced by 30% on account of contributory negligence being attributed to him. Consequently, the net compensation awarded to



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appellant/injured was Rs.1,19,945/- along with interest @ 6% per annum.

3. *Mr. Raghav Vij*, counsel for appellant/injured, states that on 20th September 2019, appellant/injured was working as a ‘barber’ at his shop situated on the footpath at *Gali No.10, opposite property no. PP-38, Ram Dharam Kanta, Anand Parbat, Industrial Area, New Delhi*, when truck bearing registration no. *HR-38W-3940* [hereinafter, ‘*offending vehicle*’], being driven in a rash and negligent manner by respondent no.1/*Umesh Kumar*, struck him, causing grievous injuries.

4. *Mr. Vij*, counsel for appellant/injured, draws our attention to the conclusion drawn by the MACT, particularly *paragraph nos.17 to 26* of the impugned award, wherein the issue of negligence and, accordingly, contributory negligence has been discussed, analysed and assessed. A perusal of the aforesaid paragraphs reveals that the defence taken by respondent nos. 2 and 3 [*the driver and the owner respectively*], that appellant/injured was crossing the road at the time of the accident, was dismissed and rejected by the MACT on the basis of the site plan, which was a part of Detailed Accident Report [‘*DAR*’], exhibited as **Ex.PW1/4**. The MACT, in this regard, stated that the site plan confirmed the version put forth by appellant/injured, and observed that the spot of accident at Point ‘A’, which was the footpath at *Gali No.10, Anand Parbat, Delhi*, where appellant/injured was doing his work of a barber would show that the appellant/injured was not crossing the road, and was indeed on the footpath at the time of the accident.



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5. The MACT further relied upon photographs of the spot of the accident which had been placed on record along with the DAR. Said photographs indicated that the spot of accident was the footpath where the appellant/injured was working as a ‘*barber*’ by putting a *barber chair* on the footpath itself. Photograph of the broken *barber chair* was also on record.

6. On basis of the aforesaid, the MACT concluded that appellant/injured was encroaching upon the footpath and was, therefore, an unauthorised and illegal squatter. The MACT further observed that by working as a ‘*barber*’ on the footpath, appellant/injured had exposed himself to a risk of being injured. Accordingly, appellant/injured was held liable for contributory negligence.

7. This Court has already taken a detailed view in this regard, in ***Digamber Kumar v. National Ins Co Ltd.***, 2026 SCC OnLine Del 5578, and held that a person who is present on the footpath, whether as a pedestrian or while sleeping, cannot be held liable for contributory negligence. The same principles will squarely apply in this case as well. The question that needs to be considered, in such circumstances, is why the offending vehicle was on the pavement or being driven on the footpath, when the same is not permissible under the Motor Vehicles Act, 1988.

8. For ease of reference, the relevant discussion and analysis from ***Digamber Kumar*** (*supra*) is extracted as under:

“12. The Court is quite surprised to note the observation of the MACT in this regard and the conclusion drawn of 50%



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contributory negligence. The question which the MACT ought to have asked itself was whether the truck driver had any authority or right to drive his truck over the pavement, which is meant for pedestrians. The answer to that question would have been obvious, and therefore, whatever activity is happening on the pavement, whether people are sleeping, or hawkers are present, or people are walking, cannot come within the purview of contributory negligence.

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14. Section 2(r) of the Delhi Police Act, 1978, states that “street” includes any highway, bridge, way over a causeway, viaduct or arch or any road, lane, footway, square, court, alley or passage accessible to the public, whether or not it is a thoroughfare. Thus, a footway, a bridge, etc. would be covered under the expression “street” under this statute. A pavement is used as a passage by people on foot. Rule 39(3) of the Motor Vehicles (Driving) Regulations, 2017, provides that where a road is provided with a footpath or cycle track, a driver shall not drive on such footpath or track except with the permission of a police officer in uniform. Further, Rule 15 of the Rules of The Road Regulations, 1989, prohibits parking of motor vehicles on a footpath, while Rule 8 mandates that drivers slow down on approaching pedestrian crossings.

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16. Notably, the Supreme Court recently in the decision of Maniyar Iliyaz @ Shaik Riyaz v. P. Ayyappan, 2026 INSC 647 has expounded extensively on the rights of pedestrians and, in fact, elevated the right to walk to a legal right. The Supreme Court observed that the right to walk, including the right to safe and demarcated footpaths, is a fundamental right flowing from Articles 19(1)(d) and 21 of the Constitution of India. Relevant paragraphs are extracted from the discussion as under:

“13. Insofar as the right to walk on demarcated footpaths is concerned, though it is integral to Articles 21 and 19(1)(d), there is no legislation. It is compelling to lay down a statutory framework not only for declaring the right, but also to recognise the duty bearers. The Act must protect, enhance, and provide



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quick remedies for violations, and also establish a full-time regulator to plan, enforce, and implement this precious right. We direct the Registry to send a copy of our judgment to the Ministries of Housing and Urban Affairs, Rural Development, Road Transport and Highways, to reflect on the compelling necessity for initiating the necessary legal framework. A copy may also be sent to the Law Commission for examining the statutory framework for protecting the right, identifying the duty bearers and provisioning remedies. Constitutional Courts also have a duty to declare with clarity the existence of this fundamental right and ensure that the existing civil and the constitutional remedies are accessible and effective.

14. We have clarified at the very outset that the Motor Vehicles Act, 1988, is not a legislation for protecting the right to walk on the footpath. Its predecessor, the Motor Vehicles Act, 1939, was enacted with the primary concern of the State to standardise commercial transport and to create a revenue-generating system through registration, licensing, and permits. Its successor the present 1988 Act, continues the same tradition of laying down the entire infrastructure for licensing of drivers of motor vehicles, licensing of conductors of stage carriages, registration of motor vehicles, control of transport vehicles, special provisions relating to state transport undertakings, construction, equipment and maintenance of motor vehicles, control of traffic, insurance of motor vehicles, claims Tribunals and such other provisions. The Motor Vehicles Act is built upon "vehicle" as the subject of the legislation, while "human" interests are incidental, which a motor vehicle must avoid violating - that's all, and no further. In its discourse, the right of a pedestrian is incidental; the mainstay of this legislation is the Motor Vehicle. In the year 2017, the Ministry of Road, Transport and Highways notified i.e. on 23-6-2017, the Motor Vehicles (Driving) Regulations, 2017, which defines Road User to include a person driving or travelling on



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the road in a vehicle or otherwise and a pedestrian (Regulation 2(o)). Regulation 3 contemplates a duty of a vehicle towards road users and general public. Regulation 5 imposes a duty on drivers to take special care and precautions to ensure safety of vulnerable road users such as pedestrians, cyclists, children, etc. Regulation 9 speaks about precautions to be taken at intersections where there is inter alia a pedestrian crossing. These regulations are nothing more than guiding principles for a motor vehicle driver, they neither recognise the fundamental right to walk on demarcated footpaths nor prioritise the right to footpath over a motorised road. Unfortunately, as of today, even under the Motor Vehicles Act, 1988, the Parliament has not put in place a full time regulatory body for motor transport. The Transport Authorities contemplated under Chapter V are not regulatory bodies. This Court has long been struggling to squeeze in pedestrian rights in the nooks and crannies of the Motor Vehicles Act and the attempt is still continuing with monitoring the implementation of its directions issued since 2012.

15. It is important to recognise that if the fundamental right to walk on a demarcated footpath is violated, a citizen is entitled to enforce restitutionary remedy. This remedy is distinct from that of the claim that a person may make under the Motor Vehicles Act. The restitutionary remedy under the Constitution or under Sections 38-40 of the Specific relief Act, 1963 for the enforcement of public duties can be enforced against the Urban Development Authorities, Municipal Corporations, Municipalities, or the Panchayats.

20. Returning to the discussion and the articulation of the right, the correlative duty and followed by the constitutional statutory remedies, in conclusion, we declare as under:

a. The right to walk is a fundamental right under Part III of the Constitution. It is integral to the right to movement guaranteed under Article 19(1)(d) read with



Article 19(1)(a), Article 19(1)(b), Article 19(1)(c) and Article 21 of the Constitution of India. The fundamental right to walk will take within its sweep the right to demarcated footpaths. These rights are primary and shall have priority over movement by motorised vehicles.

b. The fundamental right to walk on demarcated footpaths has a correlative duty. If the road exists, there is a duty to ensure that there are demarcated and well-maintained footpaths for walkers. The duty bearers are the urban development authorities, municipal corporations, municipalities and even panchayats, who must endeavour to demarcate, construct, maintain, and safeguard footpaths and other necessary pedestrian infrastructure, as walking is integral to life.

c. The violation of the right to walk on demarcated footpaths will entitle the citizens to invoke constitutional and legal remedies against duty bearers for restitution and compensation. This remedy is independent of the remedies that are available under the Motor Vehicles Act, 1988.”

(emphasis added)

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18. In view of the statutory framework and the judgments of the Supreme Court and High Court discussed above, it is evident that pavements and footpaths are intended exclusively for the use of pedestrians. The law does not permit their use for any other purpose, whether by way of unauthorised encroachments, parking of vehicles, or driving motor vehicles upon them. The very purpose of a pavement is to provide pedestrians with safe space to walk and be free from the dangers of vehicular traffic.

19. Therefore, a pedestrian who is using a pavement, walking, standing, or resting owing to compelling circumstances, cannot be expected to anticipate that a motor vehicle would be driven onto the footpath. The very purpose of the pavements or footpaths is for pedestrians or for any licensed user, and not for motor vehicles to drive. Therefore, the entire responsibility, in such circumstances,



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lies upon the driver who drove the vehicle into a space reserved exclusively for pedestrians. Needless to say, a driver ought to be more cautious while driving in an area meant for pedestrians. Even if it is not being used for the purpose it is intended for, still it certainly cannot be used for driving, which is completely prohibited under the law.

(emphasis added)

9. In the facts of the present case as well, even though appellant/injured may be regarded as an unauthorised user for carrying out the work of a 'barber' on a *barber chair* on the footpath (even though no evidence of unauthorized use was placed), the same would be an issue concerning civic responsibility and municipal action; however, he certainly cannot be held guilty of contributory negligence on this account. Contributory negligence has to be established by showing that the injured or deceased had themselves contributed to the occurrence of the accident. In the present case, the accident occurred, in the first place, due to the offending vehicle being driven upon or crashing into the footpath, which cannot be countenanced. Footpaths and pedestrian areas are sacred and safe spaces not meant for vehicles to be crashing into or even being driven onto. Any injury or casualty suffered by a person on the footpath or pedestrian area, irrespective of the reason for which he is on the footpath/pedestrian area, cannot be a factor for fastening contributory negligence upon him. It is for the driver of a motor vehicle to respect that space.

10. It is also noted that the plea of contributory negligence was not taken by the Insurance Company in the written statement filed by it before the MACT.



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11. In view of the aforesaid, in the opinion of this Court, the deduction towards contributory negligence ought not to have been made and is, therefore, set aside. The appeal is allowed to this extent.

12. Accordingly, the total compensation payable to appellant/injured would now amount to *Rs.1,71,350/-* along with interest at the rate of 6% per annum.

13. Considering that a sum of *Rs.1,20,000/-*, along with the accrued interest thereon, has already been deposited by the Insurance Company, the balance amount payable towards compensation [*Rs.1,71,350/- Rs.1,20,000/-*], along with accrued interest, shall be deposited by the Insurance Company before the MACT within a period of *four weeks*. The same shall be released to the appellant/injured as a lump sum.

14. The originally awarded amount, i.e. *Rs.1,20,000/-* along accrued interest thereon, if not already released, shall be released in favour of appellant/injured as a lump sum.

15. Appeal stands disposed of in above terms.

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

17. Judgment be uploaded on the website of this Court.

(ANISH DAYAL)
JUDGE

AUGUST 19, 2026/ak/ya