

Shalender Chauhan vs Dcp Police Control Room & Ors on 26 March, 2025

\$~37 & 38

* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision

+ MAC.APP. 542/2019, CM APPL. 22112-22114/2019, CM APPL. 45471/2019 & CM APPL. 48598/2022

SHALENDER CHAUHAN

.....Appellant

Through: Ms. Pallavi S. Kansal,
Sharma, Mr. Raghav Vij,
Kumar Jha, Mr. Pratham
Advs. with Petitioner i

versus

DCP CONTROL ROOM & ORS

.....Respondent

Through: Mr. Gigi George, Adv. with SI
Praveen Kumar, SI Khalil Ahmad,
PCR, Delhi Police
Mr. Naveen Kumar Raheja, Ms.
Nandita Surolia, Advs. for R-2

+ MAC.APP. 557/2019, CM APPL. 23110-23111/2019 & CM APPL. 50032/2022

SHALENDER CHAUHAN

.....Appellant

Through: Ms. Pallavi S. Kansal,
Sharma, Mr. Raghav Vij,
Kumar Jha, Mr. Pratham
Advs. with Petitioner i

versus

DCP POLICE CONTROL ROOM & ORS

.....Respondent

Through: Mr. Gigi George, Adv. with SI
Praveen Kumar, SI Khalil Ahmad,
PCR, Delhi Police
Mr. Naveen Kumar Raheja, Ms.
Nandita Surolia, Advs. for R-2

Signature Not Verified
Digitally Signed By:JAI
NARAYAN

Signing Date:11.04.2025 16:50:21 MAC.APP. 542/2019 & connected matter

CORAM:
HON'BLE MS. JUSTICE TARA VITASTA GANJU
TARA VITASTA GANJU, J.: (Oral)

1. The present Appeals have been filed under Section 173 of the Motor Vehicle Act, 1988 seeking to challenge Judgments dated 30.10.2018 passed by the learned Motor Accident Claim Tribunal (Pilot Court), Karkardooma Courts, Delhi [hereinafter referred to as "Impugned Judgments"]. By the Impugned Judgement in MACT No. 49/18, compensation in the sum of Rs. 7448/- has been awarded along with interest while the Impugned Judgement in MACT No. 104/18 has dismissed the claim petition of the Petitioner and no compensation was awarded.

2. Learned Counsel for the Appellants draws the attention of the Court to an order dated 16.10.2019 passed by a Coordinate Bench of this Court to submit that the entire case of the Appellant before this Court is that there exists a short video which appears on a social media platform (Youtube), which supports the case of the Appellant that the injury to the Appellant has been caused on account of a rash and negligent driving of a police vehicle.

3. Subsequently, a Coordinate Bench of this Court on 20.05.2021 had allowed the Applications for leading additional evidence and had directed Notice to be issued to Mr. Praveen Kashyap (the person who had uploaded the video on Youtube). Although summons were served, there was no appearance on behalf of the said Mr. Praveen Kashyap.

4. Learned Counsel for the Appellant further submits that the Appellant was not allowed to lead the YouTube video as evidence in the matter as at the time the evidence was not in his power and possession. The evidence was closed on 18.08.2018. He thus submits that he limits his challenge in the present Appeals to being permitted to lead fresh evidence in view of the YouTube video that is on record.

5. Learned Counsel for the Respondents submits that the procedure has not been followed by the Appellant and that these documents were not placed on record before the learned Trial Court.

6. As stated above, the only evidence that has been sought to be relied upon by the Appellant is in respect of the YouTube video and the photographs that were taken by a passerby on the date of the incident. It is not disputed that this evidence was not placed by the Appellant before the learned Trial Court but in fact it is the grievance of the Appellant that he was unable to lead this evidence at it was not available with him but was only discovered later.

7. The Hon'ble Supreme Court in the case of Sanjay Kumar Singh v State of Jharkhand¹; has held that admissibility of additional evidence does not depend upon the relevancy to the issue on hand, or on the fact, whether the applicant had an opportunity for adducing such evidence at an earlier stage or not, but it depends upon whether or not the appellate court requires the evidence sought to be adduced to enable it to pronounce judgment or for any other substantial cause. The relevant paragraphs of Sanjay Kumar Singh case are set out below:

"8. As observed and held by this Court in A. Andisamy Chettiar v. A. Subburaj Chettiar [A. Andisamy Chettiar v. A. Subburaj Chettiar, (2015) 17 SCC 713 : (2017) 5 SCC (Civ) 514] , the admissibility of additional (2022) 7 SCC 247 evidence does not depend upon the relevancy to the issue on hand, or on the fact, whether the applicant had an opportunity for adducing such evidence at an earlier stage

or not, but it depends upon whether or not the appellate court requires the evidence sought to be adduced to enable it to pronounce judgment or for any other substantial cause. It is further observed that the true test, therefore is, whether the appellate court is able to pronounce judgment on the materials before it without taking into consideration the additional evidence sought to be adduced.

9. Applying the law laid down by this Court in the aforesaid decision to the facts of the case on hand, we are of the opinion that while considering the application for additional evidence, the High Court has not at all adverted to the aforesaid relevant consideration i.e. whether the additional evidence sought to be adduced would have a direct bearing on pronouncing the judgment or for any other substantial cause. As observed hereinabove, except sale deed 29-12-1987, which as such was rejected, there was no other material available on record to arrive at a fair market value of the acquired land. Therefore, in the facts and circumstances of the case, the High Court ought to have allowed the application for additional evidence. However, at the same time, even after permitting to adduce the additional evidence, the applicant has to prove the existence, authenticity and genuineness of the documents including contents thereof, in accordance with law and for the aforesaid purpose, the matter is to be remanded to the Reference Court.

XXX XXX XXX XXX

11. However, as observed and held by this Court in *Uttaradi Mutt v. Raghavendra Swamy Mutt*, (2018) 10 SCC 484, allowing the application filed under Order 41 Rule 27 CPC does not lead to the result that the additional documents/additional evidence can be straightway exhibited rather, the applicant would have to not only prove the existence, authenticity and genuineness of the said documents but also the contents thereof, in accordance with law. It is observed that thus the documents which are permitted to be brought on record as additional evidence have to be proved by the appellant before the Reference Court, in accordance with law and only thereafter and after proving the existence, authenticity and genuineness of the said documents including contents thereof, the same can be taken into consideration by the Reference Court."

[Emphasis supplied] 7.1 Thus, once a piece of evidence is brought to the notice of the Court which was not examined by the learned Trial Court, it must be examined else it may lead to a travesty of justice.

8. The Appeals are accordingly disposed of allowing the Appellant to lead this evidence before the learned Trial Court.

9. It is however made clear that the Appellant shall ensure that all requisite steps shall be undertaken within a period of three months from the date of passing of this order in this behalf.

10. The learned Trial Court is at liberty to take appropriate steps in accordance with law qua the new evidence.

11. The rights and contentions of the parties shall remain open to be agitated before the learned Trial Court.

12. All pending Applications stand closed.

13. The parties shall act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J MARCH 26, 2025/ha/jn [Click here to check corrigendum, if any](#)