2026:DHC:5200

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

% ***Reserved on : 26th May 2026***
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\+ **MAC.APP. 1089/2014 & CM APPL. 19663/2014**

UNITED INDIA INSURANCE CO LTD .....Appellant

Through: Mr. Pankaj Seth, Ms. Shruti Jain, Mr. Yuvraj Sharma & Ms. Vijay Laxmi, Advs.

versus

MAMTA RANI & ORS .....Respondents

Through: Mr. Pankaj Gupta, Adv. for R-1.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

ANISH DAYAL, J.

1. This appeal has been filed by the Insurance Company assailing the impugned award dated 26th September 2014 passed by the Motor Accident Claims Tribunal ['***MACT***'], Central District, Tis Hazari Courts in Suit No. 26/2014.

2. The Insurance Company has challenged the award on the ground that compensation was granted treating the matter as a death case of the deceased, *Anoop Sharma*, whereas it ought to have been treated as an injury case, since the cause of death was not attributable to the injuries sustained in the accident.

The accident

3. On 28th April 2007 at about 09:15 p.m., *Anoop Sharma* was travelling back to his home by a scooter. When he reached *Vikas Marg,*

Opposite Delhi Secretariat, ITO, a bus driven by respondent no.4/ *Rajender Kumar*, allegedly in high speed and rash and negligent manner came from behind and hit the scooter. *Anoop Sharma* fell down on the road and sustained grievous injuries.

4. *Anoop Sharma* suffered fracture of both bones in his right leg along with crush injuries and other injuries. He remained in the hospital from 28th April 2007 till 12th May 2007 and then again from 18th August 2007 till 29th August 2007. There was yet another set of admissions in the hospital on 06th November 2007 (discharged on 19th November 2007) and on 17th February 2008. This time, however, he could not survive and passed away on 22nd February 2008.

5. The wife claimed that it was due to the injuries sustained by him in the accident. The deceased was 42 years of age, earning *Rs.8,000/-* per month as a manager with *Golden Pusk, Sadar Bazar, Delhi* and had studied up to higher secondary.

6. The claim was contested by the Insurance Company, as also by the driver and owner initially. However, the driver and owner were proceeded *ex parte* on 09th August 2011.

The impugned award

7. The MACT noticed the testimony of **PW5**, *Dr. Seema Singh*, Assistant Professor (Surgery), GTB Hospital, who testified that the deceased was admitted on 17th February 2008 and died due to "*ileal perforation peritonitis with septicemia with acute renal failure*". She testified that he had been previously admitted into different hospitals and this time, during his hospitalisation, he died. She further testified that the cause of death can be a result of patient taking NSAIDS (group of

medicines used as pain killers), which were given to the patient as a result of the accident in question. She denied the suggestion that the death in this case is not related to the accident in question in any manner.

8. Based on the existence of criminal proceedings and the testimony of **PW1**, wife of the deceased and **PW2**, doctor, the MACT concluded that the deceased died as a result of circumstances attributable to the accidental injuries in question and the treatment given for the same.

9. On the issue of compensation, *Rs.15,794/-* was awarded towards medical bills, income of the deceased was taken as *Rs.3,918/-* (minimum wages of a matriculate), since there was no document to prove the income of the deceased. Further, future prospects at *30%* along with deduction of 1/3rd towards personal and living expenses was used to calculate the multiplicand. Since the deceased was 42 years of age on the date of the accident, multiplier of '*14*' was adopted. Accordingly, the *loss of dependency* was calculated at *Rs.5,70,462/-*.

10. Compensation under the non-pecuniary heads was awarded at *Rs.1,00,000/-* towards *loss of love and affection*, *Rs.10,000/-* towards *loss of estate*, *Rs.25,000/-* towards *funeral expenses*, and *Rs.1,00,000/-* towards *loss of consortium to the wife*, together with interest *@9%* per annum from the date of filing of the petition. However, no interest was awarded for the period from 09th August 2011 to 30th November 2013, during which the claimants' evidence remained pending.

11. The apportionment was decided as *50%* to *Mamta Rani*, wife of the deceased, *30%* to *Kumari Santiksha*, daughter of the deceased and *20%* to *Rameshwari Sharma*, mother of the deceased. The joint and several liability was placed on the owner and the insurer. The Insurance Company was directed to deposit the awarded amount.

Proceedings before this Court

12. Notice was issued in the appeal filed by the Insurance Company on 08th December 2014. Directions were given to the Insurance Company to deposit the entire awarded amount along with accrued interest before the Registrar General of this Court. further, release orders for *60%* of the amount in favour of claimants proportionately as per directions in the impugned award.

Submissions on behalf of the Insurance Company

13. *Mr. Pankaj Seth*, counsel for Insurance Company, stated that the date of accident was 28th April 2007 and originally a claim for injury compensation was filed. After the death of the deceased on 22nd February 2008, an application for amendment under Order VI Rule 17 of the Code of Civil Procedure, 1908 ('***CPC***') was moved, which was allowed by the Court on 13th May 2008. The issues, which were framed, were also amending and the impugned award came to be passed on 26th September 2014.

14. *Mr. Pankaj Seth*, counsel for Insurance Company, advanced submissions on tortious liability, contending that the core issue was whether the death was a foreseeable consequence of the injuries sustained in the accident and thus fell within the scope of recoverable damage, or whether the chain of causation stood interrupted in view of the doctor's evidence that the administration of NSAIDs may have caused the perforation which ultimately resulted in the death.

15. Submissions of *Mr. Seth*, counsel for Insurance Company, were focused on basic principles of damages, causation, foreseeability, intended consequences, the concept of the "*eggshell skull*" rule, and *novus*

actus interveniens. He contended that where damage or injury is caused by a tortious act but is too remote, it does not attract liability for damages. In other words, a defendant is liable only for those consequences of a tortious act that are reasonably foreseeable to the plaintiff, such foreseeability being tested on the standard of a reasonable person and not otherwise.

16. Reliance was placed on ***Simmons v. British Steel Plc.*** (2004) UKHL 20, which summarized the principle involved in considering the question of remoteness of damages.

Submissions on behalf of respondent/ claimants

17. *Mr. Pankaj Gupta,* counsel for claimant, advanced *inter alia* the following submissions:

(i) Claimants have duly established that the deceased died as a consequence of the injuries sustained in the accident. The evidence of **PW1** and **PW5** demonstrates that, following the accident, the deceased remained bedridden, underwent continuous treatment, and was admitted to hospitals on several occasions. The Insurance Company's contention that the death was unrelated to the accident could not be substantiated, particularly in the absence of any *post-mortem* examination, is therefore unsustainable.

(ii) An amendment application under Order VI Rule 17 CPC had been filed after the claim had been preferred to seek death compensation instead of injury compensation. The Insurance Company did not file a reply. Issues were also freshly framed in 2014 and there was no objection taken by the Insurance Company.

(iii) There was no break in the chain of causation since there was a direct and uninterrupted nexus between the injuries sustained in the accident, prolonged treatment, repeated hospitalisation, deterioration of medical condition and eventual death.

(iv) The doctrine of *novus actus interveniens* applies only when there is an independent and unforeseeable intervening event, which completely displaces the original cause. In the present case due to continued treatment, subsequent medical complications arose during such treatment and, therefore, there was no independent event.

(v) The medicines which appear to have caused the complication were administered solely on account of the injuries sustained in the accident. Therefore, there exists a causal connection even if the said medicines had adverse side effects. The deceased's hospitalization on four occasions indicates continuous medical management and a progressive deterioration of his condition. Further, the provisions of the Motor Vehicles Act are a piece of social welfare legislation intended to provide just compensation.

18. *Mr. Gupta*, counsel for claimant, placed reliance on the following decisions:

(i) In ***National Insurance Company Ltd. v. Meenakshi Gupta & Ors.*** 2019:DHC:3496, where the Court held that non-filing of post mortem report would not defeat the claimants' case, as all the other medical reports, post surgery medication, bills of medicines, frequent follow up visits of hospital clearly indicate that his injured condition worsened with the passage of time, to which he ultimately succumbed.

(ii) In ***New India Assurance Co. Ltd v Suman Gupta & Ors***, 2025:DHC:8822, the decision of the Coordinate Bench of this Court, where it was stated that where a Tribunal had given a finding of causation, it was not for the High Court to disprove such findings without adequate reason. The reliance was placed on Supreme Court's decision in ***Ramathal & Ors v. Manging Director, Cheran Transport Corpn, Coimbatore***, 2003 10 SCC 53. Since the findings of the Tribunal were based on uncontroverted medical evidence, the Court declined to allow the appeal of the Insurance Company.

(iii) In ***United India Insurance Company Ltd. v. Shakuntala and Ors***, 2016: DHC: 7316, the victim had been injured in the road accident but later went into depression and committed suicide, a year after the accident. The Insurance Company contended that there was no connection between the accident and the death of the deceased. The Court agreed with the Kerala High Court's decision in ***Venugopal Narayanan Nair v. T.L. Paulson***, AIR 2009 Ker 86 which was decided in similar circumstances.

(iv) In ***Oriental Insurance Co. Ltd. v. Robinson and Anr***, 2024:KER:52685, the victim was injured in an accident and ultimately died subsequently after months of treatment . The Insurance Company objected to the claim petition, denying that the death was caused due to injuries in the accident. The Tribunal decided in favour of claimant, stating that the causation was related to the injuries sustained in the accident. Medical evidence stated that the accident was not the immediate cause of the death, while,

in cross-examination it came out that there were no ailments before the accident, but he died because of liver cirrhosis. In this regard reliance was placed on ***Ranchhodbhai and Anr v Babubhai Bhailalbhai & Anr***, AIR 1982 Guj 308, and ***National Insurance Co. Ltd v. Anthony (since deceased) and Ors***, 2015:KHC:6121, where it was stated that lack of *post mortem* cannot be a reason to decline the claim. The Court noted the application of "*but for test*" since the aggravation of the disease might have occurred due to the accident, the victim being able-bodied person 26 years prior to the accident. The Court, therefore, upheld the Tribunal's finding on causation.

(v) In ***Govind Singh v. A.S. Kailasam,*** 1974 SCC OnLine Mad 163, the victim sustained an injury on her left foot due to an accident by a car and developed tetanus despite receiving medical attention and died 15 days later. The Insurance Company claimed that the death was not due to the injury sustained in the accident, but due to *novus actus interveniens*. The Court held that there was no negligence on behalf of the victim which caused the infection to set in the wound. The definitive evidence of the doctors was that the death was due to tetanus and the infection had been brought about by the injury sustained in the accident. It was held that injury sustained in one accident may be the cause of subsequent injury. The Court applied the law by the English Courts in ***Smith v. Leech Brain and Co. Ltd***., (1961) 3 All ER 1159 and ***Pigney v. Pointera Transport Service Ltd***., (1957) 2 All ER 807, taking into account that tetanus was a foreseeable and likely consequence of a bleeding injury and in the absence of any evidence that there was any other supervening

cause which brought about the tetanus infection, it was concluded that there was no possibility that the death was caused by *novus actus interveniens*.

Analysis

19. Before appreciating the factual matrix in which the issue of causation would be tested, it would be apposite to first sketch out the legal principles which are applicable.

20. A claim for compensation on account of injury, *albeit* under the statutory framework of the Motor Vehicles Act, is essentially a claim for damages arising out of tortious liability, in this case, negligence, that is cause of injury due to the wrongful act of the defendant.

21. The *first issue* which needs to be established is of *causation i.e.* whether the damage was actually caused by defendant. If the answer is affirmative then the *second issue* of *remoteness* arises *i.e.* the scope and extent of protection which is accorded to plaintiff and whether the law protects the plaintiff from the particular damage that he had suffered.

22. Causation was initially conflated with the *direct consequences test* to determine the extent of liability. Later, it was replaced by the test of *foreseeability* as per the decision of the Court of Appeal in ***Overseas Tankship (U.K.) Ltd. v. Morts Dock & Engineering Co. Ltd. (The Wagon Mound)***, [1961] AC 388, [1961] 1 ALL ER 404. To decide whether the damage was caused by defendant's wrongful act, the general test applied was whether "*but for the defendant's wrongful act*" the damage would not have taken place. If it appears that the damage would have taken place, wrongful act or not, the defendants' act cannot be

considered as the cause of the damage. The assessment was on balance of probabilities (*and not percentage of probabilities*).

23. The *Wagon Mount test* which overruled a prior ruling in ***Re Polemis & Furness, Withy & Co. Ltd.*** [1921] 3 KB 560 has also been referred to by the Supreme Court in ***Rajkot Municipal Corporation v. Manjulben Jayantilal Nakum & Ors***., (1997) 9 SCC 552. The test of foreseeability is used to test remoteness, the issue of extent of liability is decided based on whether the damage was within the foresight of a reasonable man.

24. The issue in this case relates to the chain of causation set in motion by the wrongful act of the driver/owner which allegedly is interrupted or snapped by intervening events. This introduces the problem of determining whether damage resulting after the intervention of the new act or event qualifies for an award of damages. An intervening act or human action, as opposed to intervening events/natural events, does not *per se* sever the chain of causation. The plaintiff can still be entitled to claim damages for all injury caused by the original wrongdoer, the person who set the chain in motion, even though the intervening act is one of the elements contributing to the final injury. An intervening act breaks the chain of causation only if it is in the nature of something unwarrantable, unreasonable, extraneous or extrinsic. (*Halsbury Laws of India Vol. 9, Edition 2001 115.071*)

25. The chain of causation may break when the third-party acts with unconstrained choice to commit the intervening act and the defendant is less likely to be liable. But if the act of the third party is lawful, generally damage will not result. If the act of the third party is wrongful, negligent

or intentional, then it is less likely that the defendant will be liable and the damage will be considered remote and unrecoverable.

26. The plaintiff can recover damages for an unforeseeable consequence of a foreseeable type of injury as in the case of ***Smith v. Leech Brain & Co. Ltd.*** [1962] 2 QB 405**,** where a burn on the lip led to cancer and ***Robinson v. Post Office***, 1974 2 ALL ER 737, where an anti-tetanus shot administered on account of an injury lead to an allergic reaction.

27. It is important to mention the so-called '*eggshell skull rule*' which states that the defendant takes the plaintiff as he finds him. If a normal plaintiff would have had an action in tort, it does not avail the defendant to say that because of some abnormal physical or mental fragility the injury to the plaintiff is more extensive or different in kind from what might have been expected.

28. In ***Smith v. Leech Brain*** *(supra),* a workman of the defendants suffered a burn injury on his lower lip because of their negligence and the injury promoted cancer at the site of the burn resulting in his death. In an action by the widow, the defendants were held liable even though it had been established that there was a pre-malignant condition which would have developed at some stage of his life.

29. Summarising, the concept of causation has to be examined in two stages namely, *factual causation* (whether the defendants' act actually contributed to the occurrence of the damage) and then, *legal causation* (whether the defendants' act was sufficiently connected with the damage so as to justify the imposition of legal responsibility). While the factual causation is determined on the "*but for test*", legal causation is determined

on the aspect of foreseeability as propounded by the Privy Council ***Wagon Mound Case*** (*supra*), including within its scope the "*eggshell skull rule*".

30. In establishing this chain of causation, an intervening act can break the chain only if such an intervening act is completely unwarranted or unforeseen and it is so potent that it supersedes the original negligence. The general rule is that medical treatment necessitated by the original injury does not ordinarily break the chain of causation. The defendant remains liable even if the injury is aggravated by the medical treatment or by the claimant's peculiar susceptibility to such treatment. Only in exceptionally or grossly negligent treatment an intervening act can be triggered, constituting a *novus actus interveniens*.

31. Medical error is considered as a foreseeable incident of treatment. In this light, the following decisions from international jurisdictions may be considered:

I. ***Pigney v. Pointers Transport Services Ltd.*** [1957] 1 WLR 1121:

   i. Plaintiff was injured in an accident during the course of employment, however, suffered from anxiety, neurosis and depression and ultimately committed suicide by hanging. The plaintiff's widow was held entitled to damages since the death was considered as directly traceable to the injury in the accident for which the defendants were responsible. The act of committing suicide did not break the chain of causation even though it was considered as a felony.

   ii. The Court of Appeal held that there was no doubt on the evidence that the deceased would not have committed suicide if he had not been in a condition of acute neurotic

depression induced by the accident. In that sense, the injury which he sustained in the accident was a *causa sine qua non* of the accident, even though this could not have been reasonably foreseen by the defendants. In this case, the Court of Appeal applied the direct causation test. This approach was subsequently superseded by the reasonable foreseeability test laid down in *The Wagon Mound* case (*supra*). Accordingly, the present case has been referred to solely for the sake of completeness.

II. ***Smith v. Leech Brain & Co Ltd.*** [1962] 2 QB 405:

i. Plaintiff had a lip burn as part of his work at the employer's site. Later, the burn triggered cancer resulting in death. It was held in a claim under the Fatal Accidents Act, that the damage was in the course of employment with the defendants. *Lord Parker, CJ*, dealt with the issue whether the cancer and the death resulting from it were caused in part by the burn.

ii. Though little was known of the etiology of cancer, it was noted that there could be various causes. The court found that "*the burn was the promoting agency of cancer in tissues which already had a pre-malignant condition*". It was, therefore, held that but for the burn, it would not have necessarily ever developed into cancer, but the burn did contribute to or caused in part the cancer and the death.

iii. Queen's Bench Division (QBD) noted the ***Wagon Mound Case*** (*supra*) and stated that "*the test is not whether these employers could reasonably have foreseen that a burn would*

cause cancer and that he would die. The question is whether these employers could reasonably foresee the type of injury he suffered, namely, the burn. What, in the particular case, is the amount of damage which she suffers as a result of that burn, depends on the characteristics and constitution of the victim".

III. ***Wieland v. Cyril Lord Carpets Ltd.*** [1969] 3 All ER 1006:

i. The plaintiff suffered an injury caused by the admitted negligence of the defendants. After attending hospital, she felt shaken and the movement of her head was restricted by a collar. As a result, she was unable to use a bifocal spectacle and fell while descending stairs. The Queen's Bench Division (QBD) held that the injury and damage because of the second fall were attributable to the original negligence of the defendants so as to attract compensation from them.

ii. It was observed that "*it is foreseeable that one injury may affect a person's ability to cope with the vicissitudes of life and thereby be a cause of another injury and if foreseeability is required, that is to say, if foreseeability is the right word in this context, foreseeability of this general nature will, in my view, suffice*". The Court found that the plaintiff's ability to negotiate stairs was impaired and it resulted in a fall which is one of the ordinary activities of life for which she had been rendered less capable than she previously was.

IV. ***Rouse v. Squires*** [1973] WLR 925:

i. The issue related to a claim resulting from an accident which involved three vehicles on the highway and was called a "*chain reaction accident*". The issue was whether the negligence of the first wrongdoer ceases when a subsequent negligent act contributes to the accident. The Court of Appeal held otherwise, stating that the negligent act created risk for other vehicles travelling in the same direction and the risk subsisted creating a dangerous situation which continued to a substantial degree. The accident would not have happened but for this continuing danger and, therefore, the first tortfeasor was negligent.

V. ***Robinson v. The Post Office & Anr.*** [1974] 2 All ER 737:

i. The Court of Appeal was dealing with a technician employed by the post office who slipped while descending a ladder at the post office and sustained a wound on his left shin. Later when he visited the doctor he was given an Anti-Tetanus Serum (ATS). The injection triggered a reaction and later he was admitted to hospital suffering from encephalitis which was a rare consequence of the administration of the serum.

ii. It was held that the administration of the serum was not a *novus actus interveniens* since he had not been negligent or inefficient in deciding to administer the ATS and failure to administer a proper dose had no causative effect. The post

office was bound to take the plaintiff as they found him *i.e.* with an allergy to a second dose of ATS, based on "*eggshell skull rule*". It was held to be foreseeable that as a result of the wrongful act, he may require medical treatment, in the absence of a *novus actus interveniens*, they were liable for consequences of the treatment even though they could not have reasonably foreseen those consequences.

VI. ***Looney v. Davis,*** 721 So. 2d 152 (Ala. 1998)

i. Plaintiff visited the dentist complaining of severe pain in her upper right molar. She was questioned about the pain and bleeding in her gums and questioned about her bleeding problems, if any. Post the tooth extraction, she continued to experience bleeding. Later she was found passed out on the bed with blood-stained bed sheets. She later passed away, despite treatment.

ii. The defence by the dentist was that there was negligence on the part of the treating doctors in the Emergency Room, much after the dentist had extracted a tooth and there was a supervening intervening cause. It was argued that it was unforeseeable that *Mrs. Davis* would die as a result of improper tooth extraction. The Supreme Court of Alabama applied the foreseeability as a cornerstone of proximate cause holding the defendant responsible for all consequences which a prudent and experienced person at the time of the negligent act would have thought reasonably possible to follow. It also noted the principle that "*where one is injured by the negligent or wrongful act of another, and uses*

ordinary care in endeavouring to be healed, and in the selection of medical and surgical help, but his injury is aggravated by the negligence or unskillfulness of the latter, the party causing the original injury will be responsible for resulting damages to its full extent". (***Williams v. Woodman*** 424 So.2d 611).

VII. ***Webb v. Barclays Bank, PLC*** [2001] EWCA Civ 1141:

i. In this case, *Mrs. Webb* contracted polio as a child and had mobility issues. While being employed by Barclays Bank, she tripped on a protruding stone in the forecourt of the bank, the injury causing gross instability and severe pain. There was an option of above knee amputation by the medical doctor without conducting proper investigations into the cause of the pain.

ii. *Mrs. Webb* consented to the amputation but later commenced proceedings for damages for personal injury or failure to properly maintain the forecourt where she had tripped and fallen. The issue in question was when an employee was injured in service and by the negligence of her employer, is the liability terminated by the intervening negligence of a doctor brought in to treat the original injury who in fact made it worse. The Court of Appeal considered the decision in ***Rahman v. Arearose Ltd. & Anor.*** [2001] QB 351, where the proposition that later negligence extinguishes the causative potency of an earlier tort was rejected.

iii. In the aforesaid case reliance was placed on the decision of

High Court of Australia in ***Mahony v. J Kruschich (Demolitions) Pty Limited*** (1985) 156 CLR 522 stated that where an injury was exacerbated by medical treatment, the exacerbation can be regarded as a foreseeable consequence for which the first tortfeasor was liable. The original injury can be regarded as carrying the risk that medical treatment might be negligently given. Reliance was also placed on *Clerk & Lindsell on Torts* (18th Edition, 2-55) "*moreover, it is submitted that only medical treatments so grossly negligent as to be a completely inappropriate response to the injury inflicted by the defendant should operate to break the chain of causation*". Court of Appeals held that the chain of causation was not broken by the advice of the doctor for amputation.

VIII. ***Jenkinson v Hertfordshire County Council*** (2023) EWCH 872 (KB)

i. Claimant asserted a claim against the defendant/*Local Highway Authority* after his foot went into an uncovered manhole or drain causing a fracture to his right ankle which required surgery. Though the defendant admitted liability for negligence or breach of statutory duty, it made no admission as to the extent of injury and put the claimant to proof on quantum. The expert evidence relating to surgical procedure revealed that the surgery had been performed negligently and the claimant had to undergo six further surgeries. Defendant issued an application to amend its defense to add a new paragraph denying that it could be held

responsible for injury, loss and damage due to the negligent surgical treatment. As a result of which, chain of causation had been broken and constituted a *novus actus interveniens*.

ii. The District Judge refused the application, holding that the medical treatment of an injury caused by the defendant's tort could not break the chain of causation unless it was grossly negligent treatment and a completely inappropriate response to the injury. The District Judge relied upon the decision in ***Webb v. Barclays Bank, PLC*** (*supra*) and stated that it established this principle as a rule of law. The King's Bench Division deliberated upon this determination by the District Judge, provided its own analysis and concluded that such a rule does not exist as a principle of law, defining a necessary ingredient of a *novus actus interveniens* in context of medical interventions. Based on the evidence of the orthopedic expert, the Kings Bench allowed the application to amend on the basis that such orthopedic evidence stated that there would have been a better response if the surgery had been carried out to a correct standard.

iii. In the King's Bench opinion, the issue hinged upon whether poor quality surgery could turn *appropriate* treatment into *inappropriate* medical response, but had to be considered in the trial whether the claimant was so badly mistreated that the defendant ought not to be considered responsible for the consequences of mistreatment. The King's Bench seem to place reliance on the opinion of the editors of *Clerk & Lindsell on Torts* 23rd edition at para 02-114, summarizing

the law on intervening conduct of a third party. It would be instructive to extract this view which has been stated with approval by the King's Bench as under:

> "*No precise or consistent test can be offered to define when the intervening conduct of a third party will constitute a novus actus interveniens sufficient to relieve the defendant of liability for his original wrongdoing. The question of the effect of a novus actus "can only be answered on a consideration of all the circumstances and, in particular, the quality of that later act or event" [per Lord Simonds, one of the majority, in Hogan, at 593]. Four issues need to be addressed; (i) Was the intervening conduct of the third party such as to render the original wrongdoing merely a part of the history of events; (ii) Was the third party's conduct either deliberate or wholly unreasonable; (iii) Was the intervention foreseeable; (iv) Is the conduct of the third party wholly independent of the defendant, i.e. does the defendant owe the claimant any responsibility for the conduct of the intervening third party? In practice, in most cases of novus actus more than one of the above issues will have to be considered together.*"
>
> (emphasis added)

iv. The King's Bench, speaking through *Andrew Baker J.*, merely displaced a straitjacket rule which the District Judge had taken to be crystallized in ***Webb v. Barclays Bank, PLC*** (*supra*) and instead opened the issue for consideration of all circumstances, in particular the quality of the intervening act. The King's Bench drew attention to the opinion of the Court of Appeal in ***Webb v. Barclays Bank plc*** (*supra*), observing that it constituted a clear articulation of the Court's reasoning rather than the formulation of a single,

crystallised rule of law. The same is stated as under:

> *"[56] We are of clear opinion that [here] the chain of causation was not broken. We have in mind that:*
> *(a) the original wrong-doing remained a causative force, as it had increased the vulnerability of the claimant and reduced the mobility of the claimant over and above the effect of the amputation;*
> *(b) the medical intervention was plainly foreseeable, and it was also foreseeable that the claimant's pre-existing vulnerability would impose its own risks;*
> *(c) given the doctor's conduct was negligent, but not grossly negligent and given the findings expressed at (a) and (b) it would not be just and equitable, nor in keeping with the expansive philosophy of the 1978 Act for the wrongdoer to be given, in these circumstances, a shield against (i) being liable to the claimant for any part of the amputation damages; and (ii) being liable to make such contribution to the Trust's amputation damages as was just and equitable.*
> *[57] In short, the negligence in advising amputation did not eclipse the original wrongdoing. The Bank remained responsible for their share of the amputation damages. The negligence of [the consultant] was not an intervening act breaking the chain of causation.*"
> (emphasis added)

v. In essence, the view taken by the Court of Appeal in ***Webb v. Barclays Bank PLC*** (*supra*) was subsequently endorsed by the King's Bench. The factors that emerge from these decisions and taken into consideration are: *firstly*, whether the original wrongdoing remained an operative and causative force, thereby increasing the claimant's

vulnerability; *secondly*, whether the medical intervention was reasonably foreseeable, including whether the claimant's pre-existing vulnerability enhanced the risk of such intervention; *thirdly*, whether the medical treatment was negligent or grossly negligent; and *fourthly*, whether the negligent medical treatment eclipsed the original wrongdoing as the effective cause of the injury.

Assessment

32. Applying above principles to the facts of the case, it would be noted that there is no doubt or dispute that the original injury caused to the deceased was due to the accident. The issue would be whether the subsequent admittance in the hospital and the death caused due to the *ileal perforation peritonitis and septicemia with acute renal failure*, as per **PW5,** the surgeon from GTB Hospital, would form an unforeseeable event and the opinion of **PW5**, who stated that it could be the result of patient taking NSAIDS/pain killers, would form an intervening cause. In this regard the testimony of **PW5** is critical. Two statements made in testimony and cross examination by **PW5** which are relevant are extracted as under:

> "*The cause of death of the patient is his suffering from ileal perforation peritonitis and septicemia which can be the result of the patients taking NSAIDS (group of medicines used as pain killers) which were given to the patient as a result of the accident in question*."
>
> "*It is wrong to suggest that death in this case, is not related to the accident in question in any manner*"

33. This is the only relevant medical evidence on record. Aside from this is the evidence of **PW1**, the wife of the deceased, who stated that deceased was admitted in hospital on 28th April 2007, discharged on 12th May 2007. He was again admitted in hospital on 18th August 2007 and was later discharged on 29th August 2007. Deceased was admitted for the third time on 06th November 2007, discharged on 19th November 2007. Yet again admitted on 17th February 2008 and died in the hospital while under treatment on 22nd February 2008.

34. There was no *post mortem* conducted; therefore, the Court can only rely on the uncontroverted medical evidence on record, basis the finding of this Court in ***Suman Gupta*** (*supra*).

35. The Insurance Company had pointed out to the Progress Record during the course of treatment when the patient was admitted in February 2008. It is stated that there was history of cough on and off since April 2007, and he was smoker (one bundle/day *bidi* × 20 years). It was stated that the cause of the death could be related to this and, therefore, not attributable to the injuries sustained in the accident. However, it importantly the same Progress Report also notes that patient has history of *tibia fracture* in April 2007 for which she used to take NSAIDS and antibiotics.

36. In this regard, the Court is inclined to accept the testimony of the medical expert i.e. **PW5** who stated that the cause of death was taking NSAIDS which are pain killers. Clearly, the pain killers would not have been given unless the crush injuries were suffered in the accident and were obviously not relatable to the cough/ respiratory problem, which the Insurance Company sought to highlight. Moreover, **PW5** clearly states and denies the suggestion that the death

could *not* have resulted due to the injuries caused by the accident. The testimony of **PW5** remains uncontroverted and the other evidence on record also points towards the fact that the death is attributable to the injuries suffered in the accident.

37. Applying the principles noted above, the original tortfeasor, *i.e.* the driver of the offending vehicle, caused the injuries which led to continuous medical treatment to which the deceased was subjected. The deceased had at least four hospital admissions spread over several months. The contemporaneous medical records also show that he was administered NSAIDs for fractures in his leg. No evidence was produced by the Insurance Company before the MACT to controvert the same. In fact, the Insurance Company did not lead any evidence before the MACT at all. It is also noted that they did not object to the amendment filed by the claimants for converting the case into a death claim, nor to the subsequent framing of issues.

38. The Insurance Company completely gave up its opportunity to place evidence in order to counter the medical evidence given by **PW5** and cannot now profess in the appeal, on the basis of a purely speculative contention, that the decision of MACT ought to be set aside. Even, during the appeal proceedings, no attempt has been made to place fresh evidence on record by the Insurance Company and the matter has been presented by the Insurance Company purely on first principles rather than robust evidence.

39. It is clear that the injuries would not have been caused but for the accident, and that the injuries led to the deceased undergoing continued treatment and prolonged hospitalisation, which in turn resulted in a deterioration of his medical condition and the

administration of medications in the form of ordinary painkillers, which were not unusual in any manner. This ultimately led to his serious condition developing and his death. There is no evidence on record to suggest that there was any negligence on the part of the doctors in administering NSAIDs for the fractures.

40. Quite to the contrary, in case of fractures, there is acute pain in the healing phase and, therefore, administration of pain killers would be normal in that circumstance. NSAIDS include medicines such as naproxen, ibuprofen, etc. and are obviously within the normal range of medicines which are given as pain killers. There was no unwarranted or exceptional intervening act which would break the chain of causation. If there was some unusual susceptibility to NSAIDS, neither was it recorded by any hospital nor any evidence has been produced in that regard.

41. Notwithstanding the application of the "*eggshell skull rule*", which is embedded within the principle of foreseeability, it is the opinion of the Court that the damage caused, i.e. the death of the deceased, was within the scope of foreseeable consequences arising from the original injury. The submissions of respondent that there was no break in the chain of causation are accepted, as the doctrine of *novus actus interveniens* is not applicable in the absence of any independent and unforeseeable intervening event so potent as to displace the original cause. The medical treatment herein was a natural consequence of the injuries sustained and does not break the chain of causation. The continuous hospitalisation establishes a continuing operative cause, and the Insurance Company has failed to discharge the burden of proof required to displace this position.

42. Moreover, it has been stated by counsel for respondent that ultimately the Motor Vehicles Act, 1988 is a social welfare legislation and, therefore, liberal and pragmatic approach should be adopted to determine causation. However, the Court has not based its opinion by simply adopting a beneficial and a liberal approach. Rather the conclusion by the Court is based on a rational and logical application of legal principles that have prevailed over many years relating to such situations, and the appeal is unmerited.

Directions

43. By order dated 8th December 2014, this Court had passed directions for deposit of entire awarded amount along with accrued interest before the Registrar General, subject to such deposit there shall be stay on the execution of the impugned award. Further, it was directed that *60%* of the amount be released to the claimants proportionately as per the directions in the Award through UCO Bank, Delhi High Court Branch. *Vide* order dated 15th October 2015 it was brought to the notice of the Court that the awarded amount has been deposited by appellant in two forums i.e. the High Court and the Claims Tribunal. Accordingly, the Registry was directed to refund the principal amount along with interest accrued thereon.

44. Since the appeal has been dismissed, the balance amount along with accrued interest shall be released in favour of claimants, as per the directions of the MACT in the impugned Award.

45. Appeal stands dismissed. Pending applications, if any, are rendered infructuous.

46. Statutory deposit, if any, be refunded only if the order of deposit have been complied with.

47. Copy of this judgment be sent to the concerned MACT and also to the concerned bank for information and necessary compliance.

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

ANISH DAYAL
(JUDGE)

JULY 1, 2026/*mk/rk/ak/zb*