BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL-CUM-PRINCIPAL DISTRICT AND SESSIONS COURT, RANGA REDDY DISTRICT AT L.B.NAGAR

Present: S. Sasidhar Reddy,
Chairman, MACT-cum-
Prl.District Judge,
Ranga Reddy District.

Tuesday, the 1st day of April, 2025.

M.V.O.P.No.405 of 2020

Between:

Smt.Saroj, W/o.Lalji Yadav,
Aged about 37 years, Occ: Business,
R/o.House No.1193/A, Adhitya Nagar,
Hafeezpet, Miyapur, Ranga Reddy District,
Telangana State,
Presently residing at H.No.3-12-92/372/1,
Flat No.G-1, Ragha Residency,
7th Cross, Road No.3, Rock town Colony,
Mansoorabad, L.B.Nagar, Hyderabad. … Petitioner

AND

1. Habeeba Begum, W/o.Md.Sheja Uddin Khatib,
   Aged: Major, Occ: Owner of vehicle No.TS 12EF 9936,
   R/o.H.No.19-4-340/54/49/78/4/B, Kishan Bagh Arsh,
   Mahal Bahadurpura, Hyderabad.
2. Shaik Eisa, S/o.Shaik Khamar,
   Aged: Major, Occ: Driver of vehicle No.TS 12EF 9936,
   R/o.14-20-559/3, Rajiv Gandhi Nagar, Allapur,
   Borabanda, Kukatpally, Ranga Reddy District.
3. Reliance General Insurance Company Limited,
   Represented by its Regional Manager,
   O/o.H.No.4-1-327 to 337, IV Floor, Sagar Plaza,
   Abids, Hyderabad, Telangana State. … Respondents

   (Policy valid from 04.02.2020 to 03.02.2021)

This petition came before me on 11.03.2025 for final hearing in the presence of Sri S.Raju Goud, counsel for petitioner and Sri A.Padma Reddy, counsel for respondent No.3, respondents No.1 and 2 set exparte, upon hearing both sides and on perusing the material on record and the matter having stood over for consideration till this day, this Court passed the following:-

AWARD

1. This is a petition under Section 166 of Motor Vehicles Act, 1988.

2. The case of the petitioner is that, (i) the petitioner was aged 32 years and was hale and healthy. She was doing business and earning Rs.15,000/- per month.

(ii) That on 02.08.2020, the petitioner went to a kirana shop near her home in Adhitya Nagar, Hafeezpet, for purchasing groceries. While she was at the shop, an Innova Car bearing No.TS 12EF 9936 driven by the 2nd respondent at high speed and in a rash and negligent manner collided against the petitioner. As a result of said collision, the petitioner sustained grievous injuries involving (1) Degloving injury to right foot with skin loss (2) Compound dislocation of right ankle with tear of deltoid ligament and syndesmotic injury (3) Compound fractures of 1st, 2nd, 4th& 5th metatarsals of right foot (4) Compound dislocation of 1st tarsometatarsal joint (5) Compound fracture of proximal phalanx of 5th toe of right foot (6) Compound dislocation of 3rd metatarsophalangeal joint (7) Lacerated wounds on lateral aspect of right ankle, right hind foot and plantar aspect of 5th ray or right foot and other severe injuries all over the body. The petitioner was admitted in KIMS Hospital, Kondapur, Hyderabad and she underwent treatment from 02.08.2020 to 06.08.2020. The petitioner was discharged with an advise to take physiotherapy.

(iii) That the police of Miyapur Police Station registered case in Cr.No.713/2020 under Section 338 of Indian Penal Code, 1860, against the 2nd respondent.

(iv) That the petitioner was again admitted to KIMS Hospital on 10.08.2020 and underwent treatment the second time and discharged on

13.08.2020. That because of the accident, the petitioner become permanently disabled and confined to bed and lost income. The petitioner incurred medical expenses apart from suffering physical pain and agony.

(iv) That the vehicle was driven by the 2nd respondent and is owned by the 1st respondent and insured with the 3rd respondent. Therefore, all the three respondents are jointly and severally liable to pay compensation of Rs.15,00,000/- to the petitioner with interest @ 18% per annum from the date of petition till the date of realization.

3. The 1st and 2nd respondents did not appear despite service of notices and were set exparte.

4. The 3rd respondent appeared and filed counter denying the allegations in the petition and contending that the accident did not occur as claimed by the petitioner. It occurred because of the negligence of the petitioner. That there were violations of policy conditions and therefore, the 3rd respondent is not liable to pay compensation.

5. Basing on the pleadings, the following issues were framed:

(1) Whether the accident that occurred on 02.08.2020 at about 09.20 hours at nearby kirana shop, Adhitya Nagar, Miyapur, was due to rash, negligent and high speed driving of Innova Car bearing No.TS 12EF 9936, by its driver?
(2) Whether the petitioner is entitled to compensation and if so, to what quantum and from whom?
(3) To what relief?

The issues are recast as follows:

(1) Whether the accident that occurred on 02.08.2020 near kirana shop, Adhitya Nagar, Miyapur, at about 9.20 A.M was due to rash and negligent driving of the 2nd respondent of Innova Car bearing No.TS 12EF 9936?

(2) Whether the petitioner sustained injuries in the said accident?

(3) Whether the petitioner has become permanently disabled because of the injuries sustained in the said accident?

(4) Whether the petitioner is entitled for compensation, if so, what is the quantum of compensation and from which of the respondents?

(5) To what relief?

6. The petitioner, in support of her case, examined PWs.1 to 5 and marked Exs.A1 to A19. The 3rd respondent examined RWs.1 & 2 and marked Ex.B1 to B3.

7. Heard learned counsel for petitioner. Heard learned counsel for 3rd respondent. Both Counsels also filed written arguments.

<u>ISSUE No.1:</u>

8. It is the case of the petitioner that the accident was caused by the rash and negligent driving of the 2nd respondent. In support of the same, the petitioner examined herself as PW1 and marked Ex.A1 – certified copy of FIR, Ex.A2 – certified copy of Charge Sheet and Ex.A3 – certified copy of Crime Details Form. These documents show that the police registered case against the 2nd respondent and after investigation filed charge sheet against the 2nd respondent. The 1st and 2nd respondents did not contest the case. Though the 3rd respondent contended that the accident occurred while the petitioner was trying to cross the road, the Crime Details Form under Ex.A3 and Exs.A1 and A2 did not support the said claim. The 3rd respondent did not adduce any evidence about the manner in which the accident occurred. Hence, it has to

be held that the accident was caused by the rash and negligent driving of the 2nd respondent while driving Innova Car bearing No.TS 12EF 9936.

ISSUE No.2:

9. In support of her claim that she sustained injuries in the accident, the petitioner deposed as PW1 and also placed reliance upon Exs.A1 to A3 and Ex.A4 – Medico Legal Case Certificate. These documents show that the petitioner sustained injuries in the accident.

ISSUE No.3:

10. It is the case of the petitioner that she became permanently disabled because of the injuries sustained in the accident. PW2, the doctor who treated the petitioner, did not state that she suffered any permanent disability as a result of the injuries. No other material is produced before the court by the petitioner to show that she has become permanently disabled. In the circumstances, the petitioner failed to prove that she became permanently disabled because of the injuries sustained in the accident.

ISSUE No.4:

11. Considering that the petitioner sustained grievous injuries and underwent treatment, the following amounts can be awarded towards compensation:-

PECUNIARY DAMAGES:

Medical Expenses:

12. ‘It is the case of the petitioner that she sustained grievous injuries and had to undergo treatment as inpatient twice and incurred medical expenditure and had to take prolonged treatment. In support of the same, the petitioner

examined PWs.2 to 5 and marked Exs.A5 to A19. PW2 is the doctor who treated the petitioner at KIMS Hospital. PW3 is the Billing Incharge of KIMS Hospital. PW4 is the doctor who dressed the injuries of the petitioner. PW5 is the Billing Manager of the pharmacy. The evidence of these witnesses would show that the petitioner underwent treatment at KIMS hospital and incurred medical expenses under Ex.A7 and also Exs.A12, A14, A17, 18 and 19. Learned counsel for the 3rd respondent contended that the petitioner's treatment did not involve prolonged care. However, PW2 deposed that after discharge the petitioner was advised to have the wound dressed and the treatment requires long period of time. Consequently, all these medical bills can be accepted. Therefore, the petitioner's claim of Rs.11,53,748/- towards medical expenses can be awarded.

<u>Loss of Income:</u>

13. The petitioner has not shown any material to show that she was doing business and earning Rs.15,000/- per month or that she has become permanently disabled. In the circumstances, no compensation can be awarded under this head.

<u>NON-PECUNIARY DAMAGES:</u>

<u>Pain and Suffering:</u>

14. The petitioner suffered grievous injury to her foot and that required treatment twice as inpatient in the hospital and further requires continuous treatment for a prolonged period. Considering

these circumstances, a sum of Rs.1,00,000/- can be awarded towards pain and suffering.

Loss of Amenities, Extra Nourishment, etc:

15. Considering that the petitioner sustained grievous injury which impeded her mobility and required to be confined to the bed, Rs.50,000/- can be awarded towards loss of amenities. Further, a sum of Rs.50,000/- can be awarded towards disfigurement, loss of mobility and extra nourishment, etc.

16. In all, the just compensation that can be awarded to the petitioner is Rs.13,53,748/- (Rs.11,53,748 + 1,00,000 + 50,000 + 50,000/-).

17. Hon'ble Supreme Court in *Supe Dei (smt) and others v. National Insurance Company Limited* [(2009) 4 SCC 513] confirming the judgment in *Kaushnuma Begum v. New India Assurance Co.Ltd [(2001) 2 SCC 9]* held that in motor accident cases interest at 9% is appropriate. Hon'ble Supreme Court in (1) *Anjani Singh v Saluddin [(2014) 15 SCC 582],* (2) *Syed Sadiq v United India Insurance Co. Ltd [(2014) 2 SCC 735] and (3)Chanderi Singh v Jaspal Singh [(2015) 11 SCC 703]* following the judgment in *Municipal Corporation of Delhi Vs. Association of Victims of Uphaar Tragedy and others [(2011) 14 SCC 481]* held that 9% interest can be awarded from the date of filing of the claim till date of realization. Therefore, following the rulings of the Hon'ble Supreme Court, 9% interest per annum can be awarded from the date of filing of the claim till the date of realization.

18. Learned counsel for the 3rd respondent contended that the 2nd respondent did not possess valid and effective driving licence and the same is established through the evidence of RW2 and Exs.B2 & B3. Learned counsel placing reliance upon the judgment of the Hon'ble Supreme Court in *United India Insurance Company Limited Vs. Sujata Arora and others [2013 ACJ 2129]* and the judgment of the Hon'ble High Court of Andhra Pradesh in *Bajaj Allianz General Insurance Company Ltd Vs. Gandam Somulamma and others [2015 ACJ 576]* contended that since the 2nd respondent drove the vehicle without valid driving licence, the 3rd respondent is not liable to pay compensation, since it is a breach of policy conditions.

19. Learned counsel for the petitioner placing reliance upon the judgment of the Hon'ble High Court of Andhra Pradesh in (1) *Ponnuru Anjaneyulu Vs. S.Durga Rao and another [2024(1) ALT 792]* (2) *Temburu Dhana Lakshmi and another Vs. Jayaprakash and others [2023(3) ALT 521 (DB)]* (3) *Oriental Insurance Company Ltd Vs. Palla Padmanabham and others [2022(6) ALT 671]* and (4) *Bhukya Vinoda and others Vs. B.Veeraswamy and another [2022(3) ALT 146]* contended that the insurance company is liable to pay the compensation in the first instance and later recover it from the owner and driver. Learned counsel further placed reliance upon the judgment of the Hon'ble Supreme court in (1) *National Insurance Company Limited Vs. Swaran Singh [2004(3) SCC 297* (2) *Nanjappa Vs. State of Karnataka [AIR 2015 SC 3070]* and (3) *United India Insurance Company Vs. Lehru & others [2003(3) SCC 338]*.

20. The Hon'ble Supreme Court in *Swaran Singh* held that merely because the driver did not possess the driving licence, the insurance company cannot be exonerated. The insurance company has to prove that there was deliberate violation of the policy conditions. In the present case, both the 1st and 2nd respondents were charged by the police, since the 2nd respondent drove the vehicle without driving licence and the 1st respondent entrusted the vehicle to the 2nd respondent. In those circumstances, the material on record clearly establishes that the 1st respondent had deliberately violated the conditions of policy by entrusting the vehicle to a person who did not have driving licence. Hence, the contention of the learned counsel for the 3rd respondent that there was violation of policy conditions and the 3rd respondent cannot be held liable is tenable. The breach of policy conditions in this case is fundamental because the 1st respondent entrusted the vehicle to the 2nd respondent who had no driving licence and the accident was the result of that person driving the vehicle. In the circumstances, the 3rd respondent is held not liable to pay compensation. The 1st and 2nd respondents as the owner and driver of the vehicle are liable to pay the awarded compensation to the petitioner along with interest and costs.

21. **<u>ISSUE No.5:</u>** In the result, the petition is partly allowed with proportionate costs directing the respondents No.1 & 2 to jointly and severally pay the petitioner a sum of **Rs.13,53,748/-** (Rupees Thirteen Lakhs, Fifty Three Thousand, Seven Hundred and Fourty Eight only) towards compensation with interest at 9% per annum from the date of filing of petition till date of realization. Upon deposit, the petitioner is entitled to withdraw the

entire amount. The claim against the 3rd respondent is dismissed. The Advocate Fee is fixed as Rs.1,500/-.

NOTE: The compensation amount awarded shall be deposited through NEFT or RTGS to the account of **Chairman, Motor Accidents Claims Tribunal-cum-Principal District Judge, Ranga Reddy, Savings Account No.43832047115 of SBI, Ranga Reddy Court Complex with IFSC Code.SBIN0021100.**

Dictated to the Stenographer, transcribed and typed by her, corrected and pronounced by me in the open Court on this the 1st day of April, 2025.

Chairman,
Motor Accident Claims Tribunal-cum-
Principal District and Sessions Judge,
Ranga Reddy District

APPENDIX OF EVIDENCE:

WITNESSES EXAMINED:

FOR CLAIMANTS:	FOR RESPONDENTS
PW1 : Smt.Saroja	RW1 : V.Anand Kiran
PW2 : Dr.Suresh Babu	RW2 : Md.Rasheed
PW3 : Prasad Naidu	
PW4 : Dr.Sameer Khan	
PW5 : Mohd.Sohail Ali	

DOCUMENTS MARKED:

FOR CLAIMANTS:

Ex.A1	-	C.C of FIR in Cr.No.713/2020 dt:03.08.2020 registered by the Assistant Sub-Inspector of Police, PS Miyapur
Ex.A2	-	CC of Charge Sheet filed before the PJCJ –cum- VIII Additional Metropolitan Magistrate, Kukatpally, Cyberabad against R1 and R2 for the offence u/Sec.338 of IPC & Secs.180 & 181 of MV Act
Ex.A3	-	Crime Details Form dt:03.08.2020
Ex.A4	-	Medico Legal Certificate dt:02.08.2020 issued by KIMS Hospital, Sherilingampally, Hyderabad
Ex.A5	-	Discharge Summary dt:06.08.2020 issued by KIMS Hospital, Kondapur, Ranga Reddy District

Ex.A6	-	Discharge Summary dt:10.08.2020 issued by KIMS Hospital, Kondapur, Ranga Reddy District
Ex.A7	-	Hospital IP Final Bill dt:06.08.2020 issued by KIMS Hospital, Kondapur, Ranga Reddy District
Ex.A8	-	Hospital IP Final Bill dt:20.08.2020 issued by KIMS Hospital, Kondapur, Ranga Reddy District
Ex.A9	-	Advance Payment Cash Receipts dt:02.08.2020 to 06.08.2020 (8 in number)
Ex.A10	-	Cash Payment Bills for Bhavya Ambu8lance (5 in number)
Ex.A11	-	Tax Invoice for purchase of Granufoam large dt:05.08.2020
Ex.A12	-	Medical Bills including prescriptions from medical shops dt:02.08.2020 onwards (84 in number)
Ex.A13	-	Photos showing injuries sustained by the petitioner
Ex.A14	-	Payment Receipts (6 in number)
Ex.A15	-	Test Reports (27 in number)
Ex.A16	-	Computerized Income Tax Returns for the years 2017-2018, 2018-2019 and 2019-2020
Ex.A17	-	Receipt Bills issued by Tesla Diagnostics dt:21.03.2024 and 23.01.2024
Ex.A18	-	Consultation Bill including pharmacy receipt dt:09.02.2024
Ex.A19	-	Bunch of Medical Bills (35 in number) for total amount of Rs.1,24,277/-

<u>FOR RESPONDENTS:</u>

Ex.B1	:	Insurance Policy
Ex.B2	:	Authorization letter of RW2
Ex.B3	:	Driving License Extract

Chairman,
Motor Accident Claims Tribunal-cum-
Principal District and Sessions Judge,
Ranga Reddy District