APHC010281152019

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

WEDNESDAY, THE EIGHTEENTH DAY OF FEBRUARY

TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO:882 OF 2019

Between:

1. THE BRANCH MANAGER, Reliance General Insurance Company Ltd., 2nd Floor, 5 Gajapathi, Unit-3, Bhubaneswar-751001. (3rd respondent is added as a party, as per orders in I.A.No.936/2017, dated 07.12.2017)

...Petitioner

AND

1. B.THAVITAYYA, S/o late Appanna, aged 60 years, Yadava by caste, Cooli, Residing at Amalkhudiya village, Brahmanatarla post and via, Palasa Mandalam, Srikakulam District, A.P.
2. Budda Narayana Rao, S/o Thavitayya, aged 31 years, Yadava by caste, Cooli, Residing at Amalkhudiya village, Brahmanatarla post and via, Palasa Mandalam, Srikakulam District, A.P.
3. Budda Dharma Rao, S/o Thavitayya, 26 years, Yadava by caste, Cooli, Residing at Amalkhudiya village, Brahnrianatarla post and via, Palasa Mandalam, Srikakulam District, A.P.
4. Isaac Rayitho, S/o Ganu. Ratutgim, aged about 40 years, Adivasi by caste, Owner of the Vehicle, business, residing at Tidasingi village and post, Serongo Taluk and police station, Gajapathi District, Odisha State. The Branch Manager, Future Generali Insurance Company Limited, Parlakhemundi, Gajapathi District, Odisha.

5. The Branch Manager, Future Generali Insurance Company Limited, Parlakhemundi, Gajapathi District, Odisha,

...Respondents

Appeal filed under Order 41 of CPC praying that the High Court may be pleased to Memorandum of Civil Miscellaneous Appeal under Section 173 of M.V. Act, aggrieved by the Order in Order in M.V.O.P.No.147 of 2014 on the file of Motor Accidents Claims Tribunal cum 1st Additional District Judge, Srikakulam, dated 24th day of September, 2018.

IA NO: 1 OF 2019

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to condone the delay of 4 days in filing the M.A.C.M.A. against the Decree & Judgment in M.V.O.P.No.147 of 2014 on the file of Motor Accidents Claims Tribunal—cum—1st Additional District Judge, Srikakulam, dated 24th day of September, 2018, and pass such other orders.

IA NO: 2 OF 2019

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant stay of operation of the decree and Judgment passed in M.V.O.P.No.147 of 2014 on the file of Motor Accidents Claims Tribunal—cum—1st Additional District Judge, Srikakulam, dated 24th day of September, 2018 pending disposal of the main M.A.C.M.A., and pass such other orders.

IA NO: 1 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to permit the respondents/petitioner Nos.1 to 3 to withdraw the amount deposited in I.A.No.2/2019 in MACMA.No.882/2019 dated 03.08.2021 and pass such other orders.

Counsel for the Petitioner: GUDI SRINIVASU

Counsel for the Respondents: VINOD KUMAR TARLADA

Counsel for the Respondents: SRINIVAS AMBATI

The Court made the following:

THE HONOURABLE SRI JUSTICE T.C.D. SEKHAR

M.A.C.M.A.No.882 of 2019

ORDER:

The present appeal is filed by Reliance General Insurance Company Limited questioning the order dated 24.09.2018 in M.V.O.P.No.147 of 2014 on the file of Chairman, Motor Accidents Claims Tribunal-cum-I Additional District Judge, Srikakulam on account of accident that was occurred on 15.01.2009 in which the Motorcycle bearing Registration No.OR-20-1921 was involved.

2. For the sake of convenience the parties are referred to as they were referred before the Tribunal.

3. The claimants filed claim petition under Section 166 of M.V. Act read with Rules made there under claiming compensation of Rs.3,00,000/- on account of the death of one Budda Mahalaxmi who was the wife of the petitioner No.1 and mother of petitioner Nos.2 and 3. After thread-bare enquiry, the Tribunal by impugned order granted compensation of Rs.2,46,000/- together with interest at the rate of 9% per annum from the date of filing of the petition till the date of realization holding the respondent Nos.1 and 3 jointly and severally to pay the said compensation. Questioning the same, the present appeal is preferred by Insurance Company.

4. Heard learned counsel for the appellant and learned counsel for the respondent Nos.1 to 3. Despite service of notice, there is no appearance for respondent Nos.4 and 5.

5. Perused the record.

6. The only ground urged before this Court is that the appellant is not liable to pay compensation in as much as it had never issued insurance policy as against the offending motorcycle bearing Registration No.OR 20 1921. On the other hand, it is strenuously contended by the respondents that the motorcycle got insured with the appellant and therefore it cannot escape from the liability of payment of compensation.

7. In order to prove the contention of the appellant, one Sri Karnam Bangaraiah, employee of the appellant/insurance company, Visakhapatnam Branch was examined as Rw.4. It is specifically deposed by the said Karnam Bangaraiah that on verification of the data, there is no policy bearing No.1506072329014097 found in their records which was allegedly issued as against the Motorcycle. He further deposed that the crime vehicle was not insured with the appellant/insurance company. In the absence of any record, the appellant cannot be fastened with the liability of payment of compensation. Based on the said evidence, the learned counsel for the appellant would strenuously contend that in the absence of any insurance policy issued against the offending motorcycle, the liability cannot be fastened against it.

8. Per contra, the learned counsel appearing for the respondents would draw the attention of this Court to the cross examination of

Rw.4. On perusal of the same, it is succinctly clear that Rw.4 has categorically admitted during the cross examination that he did not go through the averments made in the chief examination affidavit prepared on his behalf. Further, he has also admitted that he did not verify the records pertaining to Odisha Branch of the appellant Insurance Company. In view of the categorical admission made by Rw.4, inference can be drawn that he had no knowledge about the issuance of policy by Odisha Branch as against the offending vehicle. In such circumstances, reliance cannot be placed on the evidence of Rw.4. Though, it is contended by the appellant that, as on the date of accident the offending vehicle got insured with the 2nd respondent, nothing is placed on record to substantiate the same. Further, the 2nd respondent had filed copy of the policy issued by it as against the offending vehicle which clearly shows that the policy was valid from 29.01.2008 to 28.01.2009. In the case on hand, the accident was occurred on 15.01.2009 i.e., prior to the date of issuance of the policy by the 2nd respondent. Having considered the material on record, the Tribunal had come to the conclusion that the offending vehicle was insured with the 3rd respondent/appellant/insurance company. Further, the 2nd respondent filed application to implead the 3rd respondent/appellant as party respondent based on the policy submitted by the deceased before the 2nd respondent issued the policy. In such circumstances, no credence can be given to the evidence of Rw.1. Consequently the appellant Insurance Company cannot escape from the liability of payment of compensation.

9. For the foregoing reasons, this Court does not find any merit in the appeal and the same does not warrant the interference.

10. Accordingly, the Appeal is dismissed. No order as to costs.

JUSTICE T.C.D.SEKHAR

18.02.2026
RMR

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THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

<u>M.A.C.M.A.No: 300 of 2019</u>

<u>Date: 18.02.2026</u>

RMR