

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

MONDAY ,THE ELEVENTH DAY OF AUGUST

TWO THOUSAND AND TWENTY FIVE

:PRESENT:

THE HONOURABLE SRI JUSTICE CHALLA GUNARANJAN

IA No. 1 OF 2025

IN

MACMA NO: 772 OF 2025



Between:

HDFC ERGO General Insurance Co. Ltd., Rep. by its Branch Manager,
II Floor, Potiuri Castle, Dwarakanagar, Visakhapatnam (Covered with
Policy No. 2320100872600700000 valid from 28-09-2020 to 27-09-2021)

Appellant/Respondent No.2

AND

1. Gunutu Naga Lakshmi, W/o. Appala Satyam, Hindu, Aged 51 years,
Household duties, Residing at Katakapalli Village, Kothavalasa Mandal,
Vizianagaram District Aadhar No. 7711 6978 5365
2. Gunuru Appala Satyam, S/o. Satyam, Hindu, Aged 55 years, residing at
Katakapalli Village, Kothavalasa Village, Vizianagaram
3. Gunuru Naveen Kumar, S/o. Late Venkata Rao, Hindu, aged 25 years,
Owner-cum-rider of the Motor Cycle bearing No. AP 35-AC-5084,
Residing at Katakapalli Village, Kothavalasa Mandal, Vizianagaram
District, Cell No. 7569357037 Aadhar No. 6674 1412 2404

...Respondent/Respondent

Counsel for the Petitioner :M/s. KESAVI KUMARI NEMALA

Counsel for the Respondent :

Petition under Order 41 rule 5 of CPC is filed praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay of all further proceedings in the decree & judgment made in M.V.O.P No. 368 of 2022, dated 08-05-2025 on the file of the Chairman, Motor Accident Claims Tribunal-cum- IV Additional District Judge, Vizianagaram, Pending disposal of MACMA No. 772 of 2025, on the file of the High Court.

The court, while directing issue of notice to the Respondents herein to show cause as to why this application should not be complied with, made the following order.(The receipt of this order will be deemed to be the receipt of notice in the case).

ORDER

“On account of death of pillion rider, claiming compensation, his parents preferred claim under Section 166 of Motor Vehicles Act seeking for compensation. Tribunal by impugned order awarded compensation of ₹14,30,800/- along with interest @ 7.5% per annum.

Learned counsel for appellant contends that Ex.B1 – Insurance Policy in vogue covers only liability of third party alone, inasmuch as the pillion rider cannot be said to be third party, the Tribunal ought not to have imposed liability on the appellant-Insurance Company. She placed reliance on judgment of Hon’ble Apex Court in Oriental Insurance Co. Ltd. V. Sudhakaran K.V. & Ors. [AIR 2008 SC 2729] and the judgment of 2 High Court of Madras in United India Insurance Company Ltd. V. Sathish Kumar and another [2019 SCC OnLine Mad 16849].

Perusal of impugned order, prima facie, goes to show that Tribunal has merely proceeded on the pretext that policy covers all types of risks,

not only third party risk and thereby fastening liability on the insurance company.

In the judgments referred to above, it has been held that pillion rider of two wheeler would not be covered by Act policy, even in the present case, the policy has made certain general exceptions, unless there is separate premium paid to cover even such eventualities, the deceased pillion rider cannot claim compensation.

In view of the same, there shall be interim stay of all further proceedings in pursuance of the judgment and decree dated 08.05.2025 passed in M.V.O.P.No.368 of 2022 by the Motor Accidents Claims Tribunal-cum-IV Additional District Judge, Vizianagaram, subject to condition of the appellant depositing 1/3rd of the amount awarded along with interest and costs, within a period of eight (08) weeks from today. On such deposit being made, respondent Nos.1 and 2/claimants are permitted to withdraw the amount in proportionate shares in terms of the impugned judgment."

SD/- B.PRASAD RAO
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

For

To,

1. The Chairman, Motor Accident Claims Tribunal-cum- IV Additional District Judge, Vizianagaram.
2. Gunutu Naga Lakshmi, W/o. Appala Satyam, Hindu, Aged 51 years, Household duties, Residing at Katakapalli Village, Kothavalasa Mandal, Vizianagaram Distric Aadhar No. 7711 6978 5365
3. Gunuru Appala Satyam, S/o. Satyam, Hindu, Aged 55 years, residing at Katakapalli Village, Kothavalasa Village, Vizianagaram

4. Gunuru Naveen Kumar, S/o. Late Venkata Rao, Hindu, aged 25 years, Owner-cum-rider of the Motor Cycle bearing No. AP 35-AC-5084, Residing at Katakapalli Village, Kothavalasa Mandal, Vizianagaram District, Cell No. 7569357037 Aadhar No. 6674 1412 2404. (2 to 4 By RPAD)
5. One CC to SRI. KESAVI KUMARI NEMALA Advocate [OPUC]
6. **One spare copy**

HIGH COURT

CGR,J

DATED:11/08/2025

LIST THIS MATTER IN USUAL COURSE

ORDER

IA.NO.1 OF 2025
IN
MACMA.No.772 of 2025

INTERIM STAY

