



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3333]

MONDAY, THE NINTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SMT JUSTICE V.SUJATHA

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 504/2022

Between:

1.TATA AIG GENERAL INSURANCE COMPANY LTD.,, REP. BY ITS
MANAGER, NICHOLAS PIRAMAL TOWER, 9TH FLOOR, G K MARG,
LOWER PAREL, MUNNBAI. HOLDING ITS OFFICE AT HYDERABAD
REP,BY ITS AUTHORIZED PERSON

...APPELLANT

AND

1.NAGABOYINA GANGADHARA RAO, S/O.LATE KRISHNA, HINDU,
AGED 30 YEARS, SURYACHANDI.A RAO PETA, DWARKA
TIRUMALA MANDAL, WEST GODAVARI DISTRICT.

2.NAGABOYINA LAKSHMI, W/O. GANGADHARA RAO, HINDU, AGED
28 YEARS, SURYACHANDRA RAO PETA, DWARKA TIRUMALA
MANDAL, WEST GODAVARI DISTRICT.

3.ORUSU RAMBABU, S/O. VENKATAIAH, AGED 36 YEARS, DRIVER
OF MINI LORRY, DUGYALA VILLAGE, PEDDAADHISHARALAPPLLY
MANDAL, NALGONDA DISTRICT.

4.VARIKUPPALA SRINU, S/O. MUTHYALU, HINDU, OWNER OF MINI
LORRY, HOUSE NO.8-7-117, GROUND FLOOR, VYSHALI NAGAR,
HASTHIL,APURAM, SAROOR NAGAR, RANGAREDDY DISTRICT

...RESPONDENT(S):

Appeal filed under Order 41 of CPC praying that the High court may be
pleased to Memorandum of Grounds of Civil Miscellaneous Appeal to this
Hon'ble High Court being aggrieved by the decree and judgment dated 22-06-

2022 passed in MVOP no. 443 / 2016 on the file of Motor Accident claims Tribunal cum VII Additional District Judge, West Godavari at Eluru

IA NO: 1 OF 2022

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 24 days in preferring the appeal against the decree and judgment dated 22.06.2022 passed in MVOP no. 443/2016 on the file of Motor Accident claims Tribunal cum VII Additional District Judge, West Godavari at Eluru and pass

IA NO: 2 OF 2022

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 stay the execution of decree and judgment dated 22-06-2022 Passed in MVOP no. 443 / 2016 on the file of Motor Accident claims Tribunal cum VII Additional District Judge, West Godavari, Eluru pending disposal of Appeal and pass

Counsel for the Appellant:

1.D RAVI KIRAN

Counsel for the Respondent(S):

1.

The Court made the following:

JUDGMENT:

The TATA AIG General Insurance Company Ltd., filed the present appeal challenging the award passed in M.V.O.P.No.443 of 2016 on the file of the Court of the Motor Accidents Claims Tribunal-cum-VII Additional District Judge, West Godavari, Eluru, whereby and whereunder, the Tribunal granted compensation of Rs.2,70,000/- (Rupees Two Lakhs seventy thousand only) to the petitioner herein as against the claim of Rs.6,00,000/-, on account of the death of Nagaboyina Dharma Teja.

2. For the sake of convenience, the parties are referred to as they are arrayed before the Tribunal.
3. The case of the petitioners is briefly as follows:

On 09.05.2015 noon hours the petitioner along with her husband and cousin son Nagaboyina Dharma Teja proceeding on a motor cycle bearing No.AP37AF6929 from Suryachandra Rao peta, going towards Eluru to see her brother-in-laws son who was hospitalized at Eluru, at about 4.30 pm when they reached near Denduluru check post, opposite to the Raghava Coffee hotel, at the same time one mini lorry bearing No.AP22V5919 being driven by its driver in a rash and negligent manner without following traffic rules and without blowing the horn dashed the

Motor cycle of the petitioner. As a result minor boy sustained severe bleeding injuries and other injuries on his vital parts of the body and died instantaneously. The 1st petitioner and her husband Satyanarayana sustained multiple, bleeding injuries all over their bodies.

4. Before the Tribunal, respondent Nos.1 & 2 remained *ex parte*.

5. Respondent No.3 filed written statement denying certain allegations of the petition and specifically contended that on the date of accident 09.05.2015 the said crime was not insured with the respondent and the policy commence only from 10.05.2015. The respondent has not received any information from the policy authorities. Hence, the respondent is not liable to pay the compensation. Therefore, prayed the court to dismiss the petition.

6. Basing on the pleadings, the Tribunal framed the following issues for trial:

“1. Whether the deceased Nagaboyina Dharma Tejai died in the motor vehicle accident on 09.05.2015 due to rash and negligent driving of mini lorry bearing No.AP22V5919 by respondent No.1?

2. Whether 1st respondent had valid and effective driving license as on the date of accident and violated the Provision of M.V.Act?

3. Whether the petitioners are entitled for compensation as prayed for? If so from whom?

4. To what relief?”

7. On behalf of the petitioners, PWs.1 & 2 were examined and got marked Exs.A1 to A5. On behalf of 3rd respondent/Insurance company, RW1 was examined and got marked Ex.B1.

8. After hearing both parties and after considering the oral and documentary evidence on record, the Tribunal allowed the claim petition against respondents, awarding compensation of Rs.2,70,000/-(Rupees Two lakhs seventy thousand only) with interest @ 7.5% per annum with proportionate costs. Respondent Nos.1 to 3 are directed to deposit the entire compensation amount within three months from the date of the award.

9. Aggrieved by the said award, the respondent No.3 preferred this appeal contending that the Tribunal failed to consider that the insurance company had issued a policy to the vehicle bearing No.AP 22 V 5919 with specific mention of time and date of commencement of insurance as from 00.00 Hrs 10.05.2015 to 09.05.2016, whereas as per the claim petition the alleged accident took place on 09.05.2015 at 16.30 Hrs which is one day prior to commencement of the policy issued by the appellant and therefore, the appellant insurance company has no contractual liability for the claim in the petition. Hence, prayed to allow the appeal.

10. On the other hand, learned counsel for the injured/ respondent Nos.1 & 2 herein have supported the impugned award and prayed to dismiss the appeal.

11. Now the point for consideration is:

Whether the order of the Tribunal needs any interference?

POINT:

12. To prove that the accident occurred due to the rash and negligent driving of the driver of the crime vehicle by the respondent No.1, the claimants relied upon the evidence of PW2-eye witness and documentary evidence Exs.A1 to A5. The Tribunal through the oral evidence of PW2 coupled with documentary evidence i.e., Exs.A1 to A5 established that the accident was occurred only due to the rash and negligent driving of the crime vehicle by the 1st respondent, due to which the deceased sustained severe bleeding injuries and instantaneously succumbed to injuries. Therefore, the Tribunal has rightly articulated the rash and negligent driving of driver of crime vehicle which needs no interference.

13. With regard to the ground raised by the Insurance Company that the date of commencement of insurance policy is from 00.00 hours 10.05.2015 to 09.05.2016, whereas the alleged accident took place on

09.05.2015 at 16.30 hours, which is one day prior to the commencement of policy issued by the appellant.

14. In the present case, in Ex.B1 policy, the Insurance Company mentioned as follows:

“I/we hereby certify that the policy to which this certificate relates as well as this certificate of insurance are issued in accordance with provisions of Chapter X and XI of Motor Vehicles Act, 1988.

In witness whereof this policy has been signed at Hyderabad on 09.05.2015 receipt No.106001000454260 09.05.2015”

15. Relying on **“ICICI Lombard General Insurance Company Limited Vs. Ponnusamy and others¹”** **“Kasthuri Vs. M.Gopu²”** **“Oriental Insurance Co. Ltd., Vs. Sunder Singh³”**, the Tribunal held that by the date of accident the insurance policy was in existence, therefore, 3rd respondent cannot be exonerated from liability as the payment was recognized by the office in the Bond and answered issue No.2 in favour of the claimants.

16. So far as the quantum of compensation is concerned, as the deceased was a minor boy as on the date of accident. Hence the

¹ 2020 ACJ 2483

² 2015 ACJ 2711

³ 2007 ACJ 1297

Tribunal fixed the compensation for pain and suffering at Rs.80,000/- and loss of earning power, loss of expectation of future earning and for dependency support and love and affection is fixed and considered the age group of the parents of the deceased was 26 to 30 years as on the date of accident, the Tribunal below rightly applied the multiplier as '17' in view of the law laid down by the Apex Court in **Sarla Varma vs. Delhi Transport Corporation Ltd**⁴. After applying the multiplier '17'. After applying the multiplier '17', it would come to Rs.1,70,000/-. In addition to the above, the Tribunal also awarded Rs.20,000/- under the head of funeral expenses. In total, the Tribunal below awarded Rs.2,70,000/- (Rs.1,70,000/- + Rs.80,000/- + Rs.20,000/-) to the claimants. Respondent Nos.1 to 3 are jointly and severally liable to pay the compensation of Rs.2,70,000/- along with interest and proportionate costs. Thus, no interference is required with the said finding of the Tribunal.

17. In view of the above reasons, this Court finds no error in the said finding of the Tribunal, warranting interference with the impugned award.

18. In the result, the Motor Accident Civil Miscellaneous appeal is dismissed. There shall be no order as to costs.

⁴ 2009 ACJ 1298

Interim orders granted earlier if any, stand vacated.

Pending miscellaneous applications, if any, shall stand closed.

JUSTICE V.SUJATHA

Date: 09.02.2026
PBS