

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

THURSDAY, THE ELEVENTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HON'BLE SRI JUSTICE C.V. BHASKAR REDDY

M.A.C.M.A.No: 20 OF 2019

Appeal under Section 173 of Motor Vehicles Act against the order and decree made in M.V.O.P.No.317 of 2015 dated 10-10-18 on the file of the Court of the Chairman Motor Accident Claims Tribunal-cum-III Additional Chief Judge, City Civil Court at Hyderabad.

Between:

M/s Bharati Axa General Insurance Co.Ltd., Rep. by its Manager, T.P.Cell, 1st floor, Gokul Towers Panjagutta, Hyderabad.

...Appellant/Respondent No.2

AND

1. M. Padmamma, W/o M. Venkataiah, Aged 33 years, house wife R/o 1-16, Madanpalli, Vikarabad, R.R.District Presently R/o Anand Nagar, Malakpet, Hyderabad.
2. M. Ishwarya, D/o M.Venkataiah, Aged about 12 years, Occ- Student (Minor rep. by their mother and natural guardian Respondent No.1
3. M.Akihila, D/o M.Venkataiah, Aged about 5 years, Occ- Nil (Minor rep. by their mother and natural guardian Respondent No.1
4. M. Lakshamma, W/o Chandraiah (died) Aged 60 yrs, Occ- Nil. R/o 1-16, Madanpalli, Vikarabad, R.R.District Presently R/o Anand Nagar, Malakpet. Hyderabad.

...Respondents/Petitioners

5. Shaik Akheel, S/o Shaik Ismail, aged major Occ- Owner of DCM Van No.AP 28X 4352 R/o 11-4-462, Bazar ghat, Redhills, Hyderabad.
6. Mohammed Maiboob, S/o Mohammed Sab, Aged about 53 years, Occ- Driver of DCM Van No.AP 28X 4352 R/o Zirra Mehadipatnam, Hyderabad. (Respondent No. 6 added as per orders dt.10.4.2017 in I.A.No.1732/2016)Policy No.33261133 valid from 23.4.2014 to 22.4.2015.

...Respondents/Respondents

I.A. 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 stay the execution of decree and judgment passed in MVOP No.317 of 2015 dated 10.10.2018 on the file of the MACT cum III Additional Chief Judge, CCC, at Hyderabad pending the final disposal of the main appeal.

Counsel for the Appellant: Sri Pavan Kumar V Yadavalli

Counsel for the Respondents: Sri M. Vijay Reddy

The Court delivered the following: JUDGMENT

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M.A.C.M.A.No.20 of 2019

11th December, 2025

Between:

M/s. Bharati Axa General Insurance Co. Ltd. ... Appellant

AND

M.Padmamma and five others ... Respondents

JUDGMENT:

This appeal is filed by the appellant-Insurance Company, under Section 173 of the Motor Vehicles Act, 1988 (for short "the Act"), being aggrieved by the order and decree dated 10.10.2018 passed by the Chairman, Motor Accidents Claims Tribunal-cum-III Additional Chief Judge, City Civil Court, Hyderabad (for short, "the Tribunal") in M.V.O.P.No.317 of 2015, whereby the Tribunal awarded compensation of Rs.9,77,200/- with interest at 7.5% per annum from the date of filing of petition till realization.

2. For the sake of convenience, hereinafter, the parties will be referred to as they were arrayed before the Tribunal.

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3. The brief facts of the case are that the claimants filed a petition vide M.V.O.P. No.317 of 2015 on the file of the Tribunal under Section 166 of the Act claiming compensation of Rs.9,00,000/- for the death of M.Venkataiah (hereinafter referred as 'deceased') in a motor vehicle accident. The claimants are wife, children and mother of deceased. It is the case of the claimants that on 03.12.2014 at about 7.00 AM, the deceased was driving Mahendra Bolero Pick Up van bearing No.TS 07 UA 1820 from Guddimalakapur vegetable market towards Vikarabad with a load of vegetables at moderate speed from the extreme left side of the road and when he reached near Kesaram village gate, a DCM vehicle bearing No.AP 28X 4352 came from the opposite direction, driven in a rash and negligent manner by its driver and collided with the vehicle of the deceased. As a result, the deceased sustained grievous head injuries and died on the spot. The police, Chevella Police Station, has registered a case in Crime No.258 of 2014 under Sections 304-A and 337 of IPC against the driver of the DCM vehicle. During his life time, the deceased used to earn Rs.8,000/- per month working as a driver and the claimants solely depended on the deceased earnings and due to his

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sudden demise, they not only suffered mental agony but also lost his support and love and affection.

4. Before the Tribunal, respondent No.1 i.e., owner of the crime vehicle and respondent No.2-Insurance Company filed separate counters not only denying the age, avocation and earnings of the deceased but also contended that the accident occurred due to the negligence of the deceased and therefore, claimants were not entitled to compensation.

5. The Tribunal, after considering the oral evidence of PWs.1 to 3 and RW1 and the documentary evidence i.e. Exs.A1 to A10 and Ex.B1 to B5, held that the accident occurred due to the rash and negligent driving of the crime vehicle, resulting in the death of deceased and awarded Rs.9,77,200/- towards compensation with interest at 7.5% per annum from the date of filing of petition till realization, directing that respondent Nos.1 to 3 are jointly and severally liable to pay compensation. The Tribunal further directed respondent No.2-Insurance Company to pay and recover the amount from respondents No.1 and 3.

6. Learned Standing Counsel appearing for respondent No.2-Insurance company (appellant herein) submitted that the

Tribunal erred in applying the "Pay and Recover" principle and that it should have been entirely exonerated from liability on account of alleged breaches of policy conditions, such as non-renewal of the driver's licence and as such the direction of the Tribunal directing respondent No.2-Insurance Company to pay and recover itself is unsustainable.

7. Learned counsel for the claimants (respondent Nos.1 to 4 herein), on the other hand, submitted that the findings of the Tribunal on negligence, liability, compensation amount and "Pay and Recover" relief are well supported by the evidence and require no interference.

8. The "Pay and Recover" doctrine is a well-settled principle in motor accident compensation jurisprudence. According to this principle, even if there is a breach of insurance policy conditions, insurer cannot be permitted to evade liability towards a third-party victim; it must first satisfy the award in favour of the claimant and thereafter pursue recovery from the insured/owner in accordance with law. This approach ensures that innocent third-party victims are not left uncompensated because of disputes over policy compliance. This principle of "Pay and Recover" has been laid down by the Hon'ble Supreme

Court in *National Insurance Co. Ltd. v. Swaran Singh and others*¹ and also in the recent decision in *Rama Bai vs. M./s. Amit Minerals through Incharge Officer/ Competent Officer and another*².

9. In the instant case, the Tribunal's factual findings that the accident occurred due to negligence, and that the appellant-Insurance Company was liable to compensate the claimants, are supported by the evidence on record. The Tribunal's direction that the appellant-Insurance Company satisfy the award and recover the amount from the owner and driver is fully in line with judicial precedents and statutory interpretation. There is no compelling legal or factual error warranting interference under Section 173 of the Act.

10. Since there is no substantive error in the Tribunal's application of the pay and recover principle and the Tribunal's award is sustainable on the facts and law, this Court finds no merit in the appeal.

11. Accordingly, this appeal is dismissed.

¹ (2004) 3 SCC 297
² 2025 SCC Online SC 2067

Miscellaneous petitions pending, if any, shall stand dismissed. No order as to costs.

Sd/- M. JAWAHAR REDDY
ASSISTANT REGISTRAR

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SECTION OFFICER

To,

1. The Chairman Motor Accident Claims Tribunal-cum-III Additional Chief Judge, City Civil Court at Hyderabad. (with records)
2. One CC to Sri Pavan Kumar V Yadavalli, Advocate [OPUC]
3. One CC to Sri M. Vijay Reddy, Advocate [OPUC]
4. Two CD Copies

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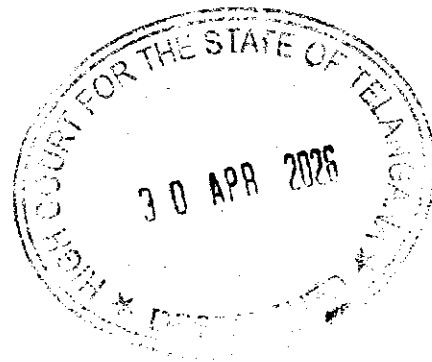


HIGH COURT

DATED: 11/12/2025

JUDGMENT+DECREE

MACMA.No.20 of 2019



DISMISSING THE MACMA

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PRESENT

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Between:

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AND

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2. M. Ishwarya, D/o M.Venkataiah, Aged about 12 years, Occ- Student
(Minor rep. by their mother and natural guardian Respondent No.1
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This appeal coming on for hearing and upon perusing the grounds of appeal, the judgment and Decree of the Tribunal and the material papers in the case and upon hearing the argument of Sri Pavan Kumar V Yadavalli, Advocate for the Appellant and Sri M. Vijay Reddy, Advocate for Respondents.

This Court doth Order and Decree as follows:

1. That the MACMA be and hereby is dismissed; and
2. That there shall be no order as to costs in this appeal.

**Sd/- M. JAWAHAR REDDY
ASSISTANT REGISTRAR**

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SECTION OFFICER

To,

1. The Chairman Motor Accident Claims Tribunal-cum-III Additional Chief Judge,
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2. Two CD Copies

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HIGH COURT

DATED: 11/12/2025

DECREE

MACMA.No.20 of 2019

DISMISSING THE MACMA

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