

HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
MOTOR ACCIDENTS CIVIL MISCELLANEOUS APPEAL No.334 of 2017

Between:

Reliance General Insurance Company Limited

...APPELLANT

AND

\$ Kurella Rahul and 3 Others

...RESPONDENTS

JUDGMENT PRONOUNCED ON **31.07.2026**

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE TUHIN KUMAR GEDELA

1. Whether Reporters of Local newspapers
may be allowed to see the Judgments?

Yes/No

2. Whether the copies of judgment may be marked to
Law Reporters/Journals

Yes/No

3. Whether Their Ladyship/Lordship wish to see the fair
copy of the Judgment?

Yes/No

JUSTICE TUHIN KUMAR GEDELA

THE HON'BLE SRI JUSTICE TUHIN KUMAR GEDELA
MOTOR ACCIDENTS CIVIL MISCELLANEOUS APPEAL No.334 of 2017

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Between:

Reliance General Insurance Company Limited

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...RESPONDENTS

! Counsel for the Appellant : Sri D.Sumanth for Sri D.Ravi Kiran

! Counsel for the 1st Respondent : Sri Sazid Kallur

! Counsel for the 2nd Respondent : Sri P.Raj Kumar

<Gist :

>Head Note:

? Cases referred: 1. 2014 SCC OnLine P&H 6036

2. (1977) 2 SCC 441

3. (2016) 16 SCC 590

4. (2004) 4 ALD (NOC 313) 33

5. (2009) 6 SCC 121

6. (2017) 16 SCC 680

7. 2014 SCC OnLine AP 1592

APHC010559082017



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

[3548]

FRIDAY, THE 31st DAY OF JULY 2026

PRESENT

THE HONOURABLE SRI JUSTICE TUHIN KUMAR GEDELA

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 334/2017

Between:

1.RELIANCE GENERAL INSURANCE COMPANY LTD.,, REP. BY ITS
 DIVISONAL MANAGER,'VIJAYAWADA, D.NO. 36-14-1, 5TH FLOOR,
 VEERAMACHANENI PRAKASA RAO COMPLEX, JAMMICHETTU
 CENTER, MOGHALRAJAPURAM, VIJAYAWADA, ANDHRA
 PRADESH,

...APPELLANT

AND

- 1.KURELLA RAHUL AND 3 OTHERS, S/O. K NATHANIYEL RAJU, 26
 YEARS, STUDENT, R/O. D.NO. 26-27-190, FATHIMA NAGAR, AT
 AGRAHARAM, GUNTUR.
- 2.KURELLA VIJAYA RAJU, S/O. K NATHANIYEL RAJU, 25 YEARS,
 PRIVATE EMPLOYEE, R/O. D.NO. 26-27-190, FATHIMA NAGAR. AT
 AGRAHARAM, GUNTUR.
- 3.CH SUBBA RAMIREDDY, S/O. CHANNA REDDY, D.NO. 3-34 B,
 KALANUTHALA, ONGOLE, PRAKASAM DISTRICT, ANDRA
 PRADESH. (OWNER OF CAR NO. AP 07AE 0054.)
- 4.SK KHASIMSHA, S/O. BIKARI SAHEB, 27 YEARS, D.NO. 15-7-30,
 PANASATHOTA, NARASARAOP3T, GUNTUR DISTRICT. (DIRVER
 OF CAR NO. AP 07AE 0054).

...RESPONDENT(S):

Appeal filed under Order 41 of CPC before the High Court against the impugned order and the decree of the Motor Accident Claims Tribunal-cum-II Additional District Judge, Guntur, passed in OP No.129 of 2015 dt.30.11.2016

IA NO: 1 OF 2017(MACMAMP 612 OF 2017

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 all further proceedings in pursuance of the order and the decree dt.30.11.2016 passed in MVOP No.129 of 2015 by the Motor Accident Claims Tribunal-cum-II Additional District Judge, Guntur, pending disposal of the above appeal.

Counsel for the Appellant:

1.D RAVI KIRAN

Counsel for the Respondent(S):

1.P RAJKUMAR

2.SAZID KALLUR

The Court made the following:

JUDGMENT:

Heard,

Mr.D.Sumanth, learned counsel representing Mr.D.Ravi Kiran, learned counsel for the appellant, Reliance General Insurance Company Limited, Mr.Sazid Kallur, learned counsel for respondent No.1, and Mr.P.Raj Kumar, learned counsel for respondent No.2.

2. The appeal is filed by Reliance General Insurance Company Limited, represented by its Divisional Manager, against the Order and Decree, dated 30.11.2016, in M.V.O.P.No.129 of 2015, passed by the Chairman, Motor Vehicles Accidents Claims Tribunal-cum-II Additional District Judge, Guntur (hereinafter referred to as “the Tribunal”), in partly allowing the petition by awarding compensation of Rs.17,83,576/- to the petitioners 1 and 2.

3. The parties are arrayed as arraigned before the Tribunal.

4. The conspectus of facts leading to the filing of the petition before the Tribunal are as follows:

i. The deceased, Janapatla Vijaya Durga, used to work as Senior Assistant in the RTO office, Markapur, Prakasam District. On 30.11.2023, the deceased, aged about 46 years, went to Hyderabad on her official work in a Car bearing registration No.AP07AE0054, where she received telephonic information that after completion of office work, she should return to Markapur via Kurnool. On her way, she went to her friend's house at Pebbair. On 01.12.2013, while she was travelling along with her friends Bhulakshmi, driver khasim and Pebbair villagers, at about 13:40 hours, the car driver drove the car at a high speed and applied the brakes suddenly, as a result, the right back tyre of the car burst and dashed to the roadside culvert and turned turtle, resulting in the deceased receiving bleeding injuries and died on the spot.

ii. In the complaint, it is also the claim of the petitioners that the deceased used to earn Rs.18,960/- per month as salary, and due to the accident and the premature death of the deceased, the claimants lost their

present and future dependency in addition to the mental agony and sufferings. The owner of the vehicle involved in the accident is vicariously liable for the negligent act of the driver, and the 1st respondent is liable to pay the compensation. The 3rd respondent, being the insurer of the said car, is also liable to make good compensation claimed by the petitioners. Accordingly, the petitioners sought compensation of Rs.23,48,520/-.

5. In retaliating to the said contentions, respondent Nos.1 and 2 before the Tribunal remained *ex parte*. The 3rd respondent-insurer filed its written statement with the averments contending that the driver of the car bearing registration No.AP07AE0054 was not holding a valid and effective driving licence at the time of the accident and was not qualified for holding or obtaining such driving licence, and had not satisfied the requirements of Rule No.3 of the Central Motor Vehicles Rules, 1989. The insurer further contended that the owner had willfully violated the terms and conditions of the policy and, as such, the insurance company is not liable to pay any sort of compensation to the petitioners. Also denied the age of the deceased as 46 at the time of accident and earning Rs.18,960/- per month. The written statement further contends that both the petitioners were majors and were not depending upon the earnings of the deceased and therefore, were not entitled for the claim, and prayed to dismiss the petition.

6. Taking into consideration the adversaries of both sides, the Tribunal framed the following issues:

- i. Whether there is rash or negligence on the part of the 1st respondent's driver?
- ii. Whether the driver of the 1st respondent has no valid and effective driving licence at the time of accident?
- iii. Whether the petitioners are entitled for compensation as prayed for?
- iv. To what relief?

7. Before the Tribunal, the 1st petitioner got himself examined as PW.1 and got examined K.V.Raviteja, S.Naga Malleswara Rao, Nelamalli

Bhulakshmi, Shaik Khasim Sha and Ch.Subbasamireddy as PWs.2 to 6 and got marked Exs.A1 to A5 and Exs.X1 to X4. On behalf of the 3rd respondent, RW.1, the Legal Assistant, was examined and got marked Ex.B1 policy.

8. The Tribunal, while answering issue Nos.1 and 2, has taken note of the evidence adduced on behalf of PW1 and the other witnesses and also the averments contained in the petition in support of the claim. The Tribunal has held that the 3rd respondent failed to elicit anything contra to the version of the petitioners with regard to the manner of the accident. PW.4 reiterated the manner of occurrence of the accident. The Tribunal has also taken note of Ex.A3, charge sheet, which discloses the name of PW.4, who was cross-examined during investigation by the police in C.C.No.118 of 2014 in Crime No.149 of 2013, dated 02.12.2013. PWs.5 and 6 also corroborated the evidence of PW.4 and the claim of PW.1 as to the nature of the accident. The Tribunal has taken note of the fact that, even during the examination of PWs.5 and 6, the 3rd respondent failed to elicit anything in negative/in support of its case. The charge sheet, which is filed after thorough investigation by the police of Manopad, clearly fixes the offences punishable under Sections 304-A and 338 of IPC against the driver. Ex.A2, inquest report also corroborated with the petitioners' version and considered that the accident has not occurred due to any mechanical defect of the vehicle through the evidence of Ex.A4.

9. The Tribunal, while deciding the issues, has considered the decision of the High Court of Punjab and Haryana relied upon by the petitioners/claimants in **Roshan Lal vs. Jarnail Singh**¹, wherein it was held as follows:

"A tyre burst on the road is result of poor upkeep of one of the most important parts in a four wheeler. It shall be no defence for an owner to plead that a burst of tyre that makes the driver lose his control over the vehicle to result in an inference that there was no negligence. When a contention is taken before the Tribunal that there was a negligent driving by the driver and it is sought to be explained by the driver that he was careful in his driving and he had kept the vehicle in a state of repair, he was bound to bring before the Tribunal all the

¹ 2014 SCC OnLine P&H 6036

evidence of the care that he had taken for the regular upkeep of the tyres. A tyre that is properly maintained is not expected to burst or if it burst, and the driver was unable to control the steering and let it go into a ditch, it is illustrative of the principle of res ipsa loquitur.

In Darshan Kumari and others Versus State of Punjab and others 2007 (4) PLR 219, a bench of this court held that bursting of tyre cannot be taken as an act of God to enable the driver or the owner to escape liability. In this regard, we may refer the Motor Vehicle Laws 14th Edition, Lexis Nexis, Volume 2 pages 1578-1579 that deal with the cases from every High Court of India taking homogeneously similar view casting the liability on the owner or the driver for any mechanical failure or bursting of tyres.”

10. The Tribunal relied on the judgment of the Hon’ble Supreme Court in **Minu B. Mehta and another vs. Balakrishna Ramchandra Nayan and another**², to fortify that the burden of proving that the accident was caused due to any mechanical or other defect in the vehicle lies on the owner. It is the duty of the owner to show that all reasonable care had been taken and that, despite such care, the defect remained hidden.

11. The Tribunal, after considering the aforesaid judgments, categorically observed that there is no evidence forthcoming from the owner or the insurer that adequate road safety measures and reasonable care and caution was taken by the owner or the driver and held that the car was in perfect condition.

12. The decision of the Hon’ble Supreme Court relied upon by the petitioners/claimants was also taken note by the Tribunal in **Gian Chand and others vs. Gurlabh Singh and others**³, wherein it was held as follows:

“In the circumstances, there is no escape from the conclusion that the bus was driven in a rash and negligent manner by its driver. Apart from that merely a mechanical failure is not enough to exonerate the transport undertaking from its liability in the absence of evidence being adduced that the vehicle was maintained properly”.

13. On behalf of the 3rd respondent, to substantiate its claim/argument that merely because a charge sheet is filed, it cannot be construed that the evidence is conclusive, as the decision of the criminal court is not

² (1977) 2 SCC 441

³ (2016) 16 SCC 590

binding and the Tribunal has an independent nature to proceed with, and on this count, the judgment of this Court was taken note in **APSRTC rep. by its Managing Director, Hyderabad vs. D.Sasikala and others**⁴, wherein it was held as follows:

“In this case the High Court of A.P. held that merely because the police charge sheeted R.W.1, it cannot be presumed that the allegations therein are true.

Investigating Officers duty in all motor accidents cases, Panchanama and sketch of the scene of accident are very important as they would show where actually the accident occurred and would assist the court in coming to a correct conclusion – Picking and choosing witnesses and investigating officers filing charge sheet solely on the basis of those statements even without taking the trouble of going to scene of accident is improper and deprecated.”

14. Coming to issue Nos.1 and 2, the Tribunal answered in favour of the petitioners/claimants and against the respondents.

15. While coming to issue No.3, the Tribunal observed that there is no dispute with regard to the status of relationship between the petitioners/claimants and the deceased. The Tribunal also observed that as there is no rebuttal evidence on behalf of the insurer *videlicet* the answer regarding dependency on the deceased and the age was also taken note of. The Tribunal thereafter took note of the salary being drawn by the deceased at the time of the accident, which was Rs.18,960/- per month. The salary certificates were marked as Exs.X2 to X4. Ex.X2 discloses the pay slip for the month of November, 2013, issued by the Deputy Transport Commissioner, Ongole, Prakasam District. Ex.X4 is the salary certificate for the month of November, 2013, issued by the Deputy Transport Commissioner, Ongole, to establish her claim regarding the drawing of a monthly salary of Rs.18,960/-.

16. The Tribunal, while discussing whether the net salary or gross salary of the deceased to be taken into consideration, Rs.20,077/- was taken as salary of the deceased at the time of death by taking into consideration the salary certificates issued by the Deputy Transport Commissioner, Ongole.

⁴ (2004) 4 ALD (NOC 313) 33

Since the said salary certificates were issued by the competent authority, the Tribunal has taken note that the salary drawn by the deceased was Rs.20,077/- per month. After deducting the amount towards Provident Fund (PF), the net salary drawn by the deceased was Rs.19,927/- per month. Accordingly, the net salary was taken as Rs.19,927/- per month. The annual income thus works out to Rs.2,39,124/- (Rs.19,927/- x 12).

17. Now, coming to the multiplier, the Tribunal has taken '11', as the deceased was aged about 53 years, in view of the age mentioned in her Aadhaar card. Since there is no other material placed by the claimants regarding the age of the deceased, the age mentioned in the Aadhaar card was taken note of by the Tribunal. Adopting the multiplier of '11', the compensation towards loss of dependency was calculated at Rs.26,30,364/- (Rs.2,39,124/- x 11). After deducting 1/3rd towards personal and living expenses of the deceased, as per the judgment of the Hon'ble Supreme Court in **Sarla Verma and others vs. Delhi Transport Corporation and another**⁵, the amount towards loss of dependency was arrived at Rs.17,53,576/- (Rs.26,30,364 - Rs.8,76,788). The other heads of compensation which the Tribunal has taken note are Rs.20,000/- towards funeral expenses and Rs.10,000/- towards love and affection, which comes to Rs.17,83,576/- (Rs.17,53,576/- + Rs.20,000/- + Rs.10,000/-).

18. Heard both the learned counsel.

19. Mr.Sazid Kallur, learned counsel for respondent No.1, would argue that the ratio laid down by the Constitution Bench of the Hon'ble Supreme Court has to be taken note of and the very contention of the claimants before the Tribunal was that they had lost their present and future dependency due to the accident. In view of the said specific claim of the claimants before the Tribunal, and also by applying the ratio laid down by the Constitution Bench in **National Insurance Company Limited vs. Pranay**

⁵ (2009) 6 SCC 121

Sethi⁶, wherein it was observed that Rs.40,000/- is to be awarded towards loss of consortium, Rs.15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses, the compensation under the said heads requires to be modified. In paragraph 59.8, the Hon'ble Supreme Court held as follows:

“59.8. Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs. 15,000/-, Rs. 40,000/- and Rs. 15,000/- respectively. The aforesaid amounts should be enhanced at the rate of 10% in every three years.”

20. In the present case, since there are two dependants, the amount towards loss of consortium would be Rs.80,000/- (Rs.40,000/- x 2). In view of the aforesaid ratio laid down by the Hon'ble Supreme Court, the Tribunal ought to have awarded Rs.80,000/- towards loss of consortium (love and affection), instead of Rs.10,000/-, and Rs.15,000/- towards funeral expenses, instead of Rs.20,000/- awarded by the Tribunal. The Tribunal ought to have further awarded Rs.15,000/- towards loss of estate to the claimants. Adopting the said ratio, the total compensation would be Rs.18,63,576/- (Rs.17,53,576/- + Rs.80,000/- + Rs.15,000/- + Rs.15,000/-).

21. While coming to the argument advanced by the learned counsel for the appellant/Insurance Company regarding the employment of the dependants, who are private employees, the Tribunal, after taking note of the evidence adduced, came to the conclusion that there is no evidence adduced fortifying that they would not fall within the definition of 'dependants'. Relying upon the judgment of this Court in **United India Insurance Company Limited vs. Shyam Rao Metre and others**⁷, the Tribunal concluded that the major sons also come within the purview of dependents. This Court, in **Shyam Rao Metre's** case (supra 7), at paragraph 18, held as follows:

“In the result, the appeal is partly allowed while holding that being the legal representatives, the claimants as major sons of the deceased, though not dependants on the deceased, entitled to

⁶ (2017) 16 SCC 680

⁷ 2014 SCC OnLine AP 1592

compensation arrived from taking of their means also in fixing the contribution of the deceased and arrived the compensation of Rs.1,90,000/- out of which for the overloading contributed to the accident for fixing 20% exclusively on the owner of the vehicle comes to Rs.38,000/- and remaining 80% comes to Rs.1,52,000/- fixed on the insurer to indemnify the owner with interest at 7.5% p.a. on respective sums from the date of claim petition till the date of realization which they have to deposit within one month, failing which the claimants can execute and recover. Rest of award/decreed terms of the Tribunal holds good. There is no order as to costs in the appeal.”

22. As per the reasoning of this Court regarding the enhancement of compensation as per the ratio laid down by the Constitution Bench in **Pranay Sethi's** case (supra 6), the Order and Decree of the Tribunal is modified to the extent of enhancing the compensation from Rs.17,83,576/- to Rs.18,63,576/-. The 3rd respondent is directed to deposit the aforesaid enhanced amount of compensation before the Tribunal within a period of eight weeks from the date of receipt of a copy of this judgment, after deducting the amount, if any, deposited earlier. The enhanced amount shall carry interest @ 6% per annum from the date of this order till date of realization. On such deposit, the claimants are entitled to withdraw the said amount by filing an appropriate application before the Tribunal.

23. Resultantly, the Motor Accident Civil Miscellaneous Appeal No.334 of 2017 filed by Reliance General Insurance Company Limited is dismissed, modifying the Order and Decree to the extent indicated above. There shall be no order as to costs.

As a sequel, Interlocutory Applications pending, if any, shall stand closed.

TUHIN KUMAR GEDELA, J

Date : 31-07-2026

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