

Date of reserved for orders :20.07.2026
Date of pronouncement :20.08.2026
Date of uploading : 20.08.2026

APHC010146032010

**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI**

[3584]



**MOTOR ACCIDENT CIVIL MISCELLANEOUS
APPEAL Nos:1125 AND 1149 OF 2010**

M.A.C.M.A.No.1125 of 2010:

Sadanala Srinivasa Rao

...Appellant

Vs.

Katta Ramana and Others

...Respondent(s)

**CORAM : THE CHIEF JUSTICE LISA GILL
SRI JUSTICE CHALLA GUNARANJAN**

DATE : 20th August 2026

Present:

Advocate for Appellant:

MR. SANKU DURGA
RAMACHANDRA RAO

Advocate(s) for Respondent(s):

MR.J. BHASKARA RAO,
REPRESENTING SRI V S R
ANJANEYALU
RAMA MOHAN RAO KOTHA,

COMMON JUDGMENT: (per Hon'ble Sri Justice Challa Gunaranjan)

Both these appeals, instituted under Section 173 of the Motor Vehicles Act, 1988 (for short, "the Act"), since assail the very same award, dated 22.12.2008, in O.P.No.473 of 2005 passed by the Chairman, Motor Vehicle Accidents Claims Tribunal-cum-I Additional

District Judge, East Godavari District at Rajahmundry, the same are heard together and disposed of by this common judgment.

2. For the sake of convenience, the parties hereinafter are referred to as they were arrayed in the M.V.O.P. before the Tribunal.

3. M.A.C.M.A.No.1125 of 2010 has been preferred by the claimant and whereas M.A.C.M.A. No.1149 of 2010 by the owner of the offending vehicle.

4. By impugned award, the Tribunal, while determining the compensation of Rs.67,03,854/-, exonerated the insurer from liability and directed the owner and driver of offending vehicle to pay the same. Thus, appellants-claimants as well as the owner of the offending vehicle being dissatisfied with the award to the extent of exonerating the insurer from liability preferred separate appeals.

5. (a) The present case originates from a motor vehicle accident that occurred on 04.05.2003 at about 04.00 a.m. near Paleru Bridge toll gate in Prakasam District. The claimant, a Senior Sales Officer at Nestle India (P) Ltd., along with several colleagues, had engaged a Toyota Qualis car bearing registration No.AP16 AF 1099 to travel from Vijayawada to Bengaluru to attend company meeting. It was alleged that the driver, drove the vehicle at high speed in a rash negligent manner, eventually losing control, crashed into a stationary lorry parked on the left side of

the road margin, as a result of the collision, the claimant sustained grievous injuries, especially traumatic cervical spinal cord injury, leading to Quadriplegia (complete paralysis of all four limbs). Following the collision, a police constable on highway patrol duty arrived at the spot and sent the injured to the Government General Hospital, Ongole. He underwent extensive medical treatment for over nine months at various institutions including Government General Hospital, Ongole, Soumya Hospital, Vijayawada, Swathantra Hospital, Rajahmundry, and Christian Medical College, Vellore. Ultimately, the injuries resulted in 100% permanent functional disability that left the claimant bedridden and dependent on attendants for the rest of life.

(b) A criminal case in Crime No.14 of 2003 was registered against the driver of the car at Jarugumalli Police Station for the offence punishable under Section 338 IPC.

(c) Claimant was aged about 30 years and drawing salary of ₹22,000/- per month, and having regard to the length of remainder of service, it was claimed that he had greater future prospects in career. In that background, he made a claim for compensation of ₹1,05,00,000/-.

6. The driver and owner of offending car were arrayed as respondents 1 and 2 and the insurer of the said vehicle as 3rd respondent. 1st respondent, driver of the car, died pending the

proceedings even before summons could be served on him. However, no steps were taken to bring the legal heirs of 1st respondent on record. Therefore, the claim qua 1st respondent got abated by order, dated 23.08.2006.

7. The owner, 2nd respondent, filed written statement denying the avocation, age, earnings of claimant, and quantum of compensation claimed. Further, it was pleaded that since the subject vehicle was insured with 3rd respondent and that the policy was in force, besides that the driver had valid driving licence at the time of accident, any liability would be to the account of the insurer, therefore, sought for dismissal of claim against the 2nd respondent.

8. The insurer, 3rd respondent, filed written statement, *inter alia*, pleading that there was violation of terms and conditions of policy inasmuch as the policy was issued for non-transport purpose and does not cover the use of vehicle for hire or reward. It was pleaded that the subject vehicle was hired by the claimant and others, and when they were proceeding from Vijayawada to Bangalore, the accident had occurred. That apart, the insurer also denied that the driver of vehicle was holding valid and effective driving licence; the accident had occurred because of rash and negligent driving by the driver of the vehicle as the accident occurred on account of negligent parking of lorry

on the road in the midnight without providing sufficient indicators or signals, besides that, various other pleas were also taken with regard to the nature of injuries, the expenses incurred, age, and earnings of the claimant.

9. Based on the aforesaid pleadings, the Tribunal has framed the following issues:

“1) Whether the accident was occurred due to rash and negligent act of R.1 driver of Qualis bearing registration No.AP 16 AF 1099?

2) Whether the petitioner is entitled for claims of compensation?

3) To what relief?”

10. In support of the claim, PW.1 to PW.7 were examined and Exs.A1 to A23 and Exs.X1 to X5 marked. The second respondent did not adduce any evidence, either oral or documentary. The third respondent got examined RW.1 and RW.2 and marked Exs.B1 to B9.

11. The Tribunal, upon appreciation of the evidence on record, both oral and documentary, answered first issue in favour of claimant, holding that the accident occurred due to rash and negligent act of first respondent, i.e., driver of the subject vehicle. While answering the second issue, the Tribunal had marshalled the entire evidence adduced on behalf of claimant and ultimately awarded compensation under various heads as follows:

1.	Towards Pain and Sufferance	Rs.10,10,000/-
2.	Towards loss of earnings	Rs. 87,030/-
3.	Towards attendant charges	Rs.13,68,000/-
4.	Towrds extra nourishment charges	Rs.13,68,000/-
5.	Towards extra hospital and medical expenses	Rs.23,80,000/-
6.	Towards permanent disability	Rs. 4,90,824/-
	Total	Rs.67,03,854/-

However, in the process of determining the aspect of liability, the Tribunal has come to conclusion that the claimant was unable to substantiate that the subject vehicle was provided by one of his colleagues' relative for travelling from Vijayawada to Bengaluru, rather, the evidence on record otherwise clearly demonstrated that they had hired the vehicle from Jahnavi Travels. The subject vehicle, since was having policy for private use and not for hire and reward, the Tribunal held that the same amounted to violation of terms and conditions of policy, thus, exonerated the insurer from the liability. Ultimately, respondents 1 and 2 were held jointly and severally liable to pay the compensation along with interest at the rate of 7.5% per annum, from the date of petition till the date of deposit.

12. Assailing the same, both the claimant as well as the second respondent, owner of vehicle, preferred these appeals.

13. Heard Mr.Sanku Durga Ramachandra Rao, learned counsel for the claimant, and Mr.J.Bhaskara Rao, learned counsel, representing

Sri V.S.R. Anjaneyulu, learned senior counsel, and Mr.Rama Mohan Rao, learned counsel, appearing for respondents.

14. Learned counsel appearing for the claimant primarily contended that the Tribunal erred in exonerating the insurance company from discharging the liability. Since the occurrence of accident because of involvement of the subject vehicle, insured by the 3rd respondent, is clearly established and demonstrated, the Tribunal ought to have applied the principle of pay and recover, rather than exonerating the insurer completely. Thus, it is urged that keeping in view the benevolent object of the Act and other relevant factors arising in the case, the insurance company be directed to discharge the awarded sum to the claimant, and then to recover the same from the insured by extending the principle of pay and recover. Except for the above, learned counsel appearing for the claimant has not advanced any other argument regarding the quantum of compensation. In support thereof, reliance has been placed on the judgment of the Hon'ble Apex Court in **Manuara Khatun v. Rajesh Kumar Singh¹ and Kaminiben v. The Oriental Insurance Co. Ltd.²**

15. In the appeal preferred by 2nd respondent, owner of the subject vehicle, while challenging the award, learned counsel for the 2nd

¹ (2017) 4 SCC 796

² 2026 ACJ 447 = 2026(2) Apex Court Judgments (SC) 571

respondent would contend that the Tribunal's conclusion that the accident occurred due to rash and negligent driving of subject vehicle was a presumptuous conclusion reached without proper appreciation of the material and evidence available on record. It is urged that the Tribunal committed serious mistake by holding that the insurer was not liable to indemnify the same, the findings in support of said conclusion, are without any basis and contrary to the letter and spirit of Ex.B7 insurance policy.

16. (a) Conversely, learned counsel for 3rd respondent, insurer, sought to maintain the Tribunal's decision in exonerating it from liability. It is urged that the subject vehicle, as was insured under a private car package policy, meant only for personal use of owner and family, the same was hired out for commercial gain to transport the claimant and his colleagues to Bangalore, thus, it clearly amounted to fundamental breach of the insurance policy terms. Therefore, the Tribunal was justified in holding that the subject vehicle, since it was used for hire or reward, fell outside the scope of policy coverage, therefore, no liability could be fastened on the insurer. It is further contended that when there is a clear breach of policy conditions, question of even applying the principle of pay and recover also does not arise.

(b) It is also contended that even otherwise, since 1st respondent, driver of the subject vehicle, died, and claim against him stood abated, the aspect of negligence stands unproved, so question of insurer being vicariously liable nor indemnifying the compensation would arise. At any rate, the owner of vehicle, since contested the proceedings and even filed appeal before this Court, extending the principle of pay and recover does not arise, hence, the judgment of Hon'ble Apex Court in **Manuara Khatun**¹, sought to be relied on by the claimant, would have no application to the present case. Alternatively, it is also contended that under Ex.B7 policy, as premium was paid for 9 persons with a cap of maximum liability of ₹88,000/-, the insurer cannot be fastened with liability more than the said sum, even to apply principle of pay and recover.

17. We have given our anxious consideration to the submissions made by learned counsels for parties and perused the record.

18. Given the facts and circumstances and contentions raised, the following questions arise for consideration in these appeals:

- 1. Whether the award passed by the Tribunal exonerating the insurer from liability is justified? and**
- 2. Whether claimant is entitled for an order against the insurer of offending vehicle to pay the awarded sum to**

the claimant and then recover the same from the insured by extending the principle of pay and recover?

19. There is no dispute with regard to occurrence of accident and the involvement of offending vehicle. The claimant sustained various injuries. On appreciation of evidence, the Tribunal has assessed the functional disability to be 100%. Resultantly, compensation for ₹67,03,854/- has been awarded. Neither the claimant nor the owner of offending vehicle, laid challenge to the quantum of compensation. The owner of offending vehicle sought to wriggle out of the liability by contending that as the vehicle has been insured under Ex.B7 policy, that the occurrence of accident and involvement of the vehicle has been sufficiently demonstrated in view of the evidence of RW.2, none other than Surveyor-cum-Claim Investigator, as a natural corollary the insurer ought to be held liable for compensation, but not the insured.

20. In this regard, there is no dispute that the offending vehicle was insured under Ex.B7 policy. The proposal form submitted for insuring the vehicle under Ex.B6 and as well as the policy issued later under Ex.B7 was for private use, i.e., private car package policy. Even the evidence of PW.7, Senior Assistant in R.T.A. Office, examined at the instance of the claimant also deposed that as per Ex.B5 certificate of registration, the vehicle was meant to be used for private purpose only and not for commercial purpose. Therefore, aforesaid evidence on record clearly

demonstrates that the subject vehicle is a private vehicle both in terms of certificate of registration and as well as the insurance policy.

21. Having said that, it is required to be now seen whether the vehicle was used for private purpose or for hire and reward. It is the case of claimant that when he, along with colleagues, working in Nestlé India (P) Ltd., wanted to attend meeting at Bangalore, the offending vehicle was provided by one of his colleagues' friend, therefore, it was only meant for private use and cannot be construed as hired, thus, violating the terms and conditions of Ex.B7 policy. In the Original Petition filed, the claimant's stand was that he, along with other colleagues, engaged a Qualis car to go to Bangalore to attend their company meeting. Later, in the chief-affidavit, the stand pleaded was that the Qualis vehicle was provided by one of his colleagues' relation. There is clearly a divergent stand from initial version. The chief-affidavit conspicuously does not refer to the name of colleague nor the person related, who provided the offending vehicle. The 2nd respondent, owner of the vehicle, nowhere in the written statement, stated that the offending vehicle was provided on the request made by one of the colleagues' relative of the claimant.

22. Further, surprisingly, owner of the vehicle, who has direct knowledge and acquaintance with the aforesaid information, was not at

all examined. On the other hand, the claimant himself admitted execution of Ex.B2 letter, in which it was specifically confirmed that the offending vehicle was hired by contracting Jahnvi Travels for their onward journey. RW.2, Surveyor-cum-Claim Investigator, examined by the insurer, deposed that his investigation revealed hiring of offending vehicle. In the conspectus of all the above, the Tribunal has come to conclusion that offending vehicle was hired by the claimant and others and en-route the accident had occurred. Since the offending vehicle was insured under a private car package policy meant for only personal use by owner and family, the same, therefore, would not cover the inmates, who engaged it for hire, as it amounted to fundamental breach of terms and conditions of policy. The Tribunal, therefore, was absolutely justified in construing that it was a case of breach of terms and conditions of policy.

23. Having said that, we would now proceed to examine whether the Tribunal was further justified in completely exonerating the insurer from the liability to indemnify the compensation.

24. We would first refer to the judgment of the Hon'ble Apex Court **Manuara Khatun**¹. It was a case where husband of the first claimant and the other passengers were proceeding in Tata Sumo and on account of head-on-collision between Tata Sumo and a truck coming in

opposite direction, the passengers in Tata Sumo died on spot. The Tribunal held that as the deceased were travelling in Tata Sumo, a private car, for hire, they were to be treated as gratuitous passengers, and thus, the insurer was not liable, hence, it was exonerated from the liability. The owner of Tata Sumo was held liable. This view of the Tribunal was affirmed by the High Court. The Hon'ble Apex Court, while allowing the appeal held as under:

“**14.** The aforesaid question, in our opinion, remains no more res integra. As we notice, it was the subject-matter of several decisions of this Court rendered by three-Judge Bench and two-Judge Bench in the past viz. *National Insurance Co. Ltd. v. Baljit Kaur* [*National Insurance Co. Ltd. v. Baljit Kaur*, (2004) 2 SCC 1 : 2004 SCC (Cri) 370] , *National Insurance Co. Ltd. v. Challa Upendra Rao* [*National Insurance Co. Ltd. v. Challa Upendra Rao*, (2004) 8 SCC 517 : 2005 SCC (Cri) 357] , *National Insurance Co. Ltd. v. Kaushalaya Devi* [*National Insurance Co. Ltd. v. Kaushalaya Devi*, (2008) 8 SCC 246 : (2008) 3 SCC (Cri) 467] , *National Insurance Co. v. Roshan Lal* [*National Insurance Co. Ltd. v. Roshan Lal*, (2017) 4 SCC 803] and *National Insurance Co. Ltd. v. Parvathneni* [*National Insurance Co. Ltd. v. Parvathneni*, (2009) 8 SCC 785 : (2009) 3 SCC (Civ) 568 : (2009) 3 SCC (Cri) 943] .

15. This question also fell for consideration recently in *National Insurance Co. Ltd. v. Saju P. Paul* [*National Insurance Co. Ltd. v. Saju P. Paul*, (2013) 2 SCC 41 : (2013) 1 SCC (Civ) 968 : (2013) 1 SCC (Cri) 812 : (2013) 1 SCC (L&S) 399] wherein this Court took note of entire previous case law on the subject mentioned above and examined the question in the

context of Section 147 of the Act. While allowing the appeal filed by the insurance company by reversing the judgment [*Saju P. Paul v. National Insurance Co.*, 2011 SCC OnLine Ker 3791 : 2012 ACJ 1852] of the High Court, it was held on facts that since the victim was travelling in offending vehicle as “gratuitous passenger” and hence, the insurance company cannot be held liable to suffer the liability arising out of accident on the strength of the insurance policy. However, this Court keeping in view the benevolent object of the Act and other relevant factors arising in the case, issued the directions against the insurance company to pay the awarded sum to the claimants and then to recover the said sum from the insured in the same proceedings by applying the principle of “*pay and recover*”.

16. R.M. Lodha, J. (as his Lordship then was and later became CJI) speaking for the Bench held in paras 20 and 26 as under : (*Saju P. Paul case [National Insurance Co. Ltd. v. Saju P. Paul*, (2013) 2 SCC 41 : (2013) 1 SCC (Civ) 968 : (2013) 1 SCC (Cri) 812 : (2013) 1 SCC (L&S) 399] , SCC pp. 52 & 55)

“20. The next question that arises for consideration is whether in the peculiar facts of this case a direction could be issued to the Insurance Company to first satisfy the awarded amount in favour of the claimant and recover the same from the owner of the vehicle (Respondent 2 herein).

26. The pendency of consideration of the above questions by a larger Bench does not mean that the course that was followed in *Baljit Kaur [National Insurance Co. Ltd. v. Baljit Kaur*, (2004) 2 SCC 1 : 2004 SCC (Cri) 370] and *Challa Upendra Rao [National Insurance Co. Ltd. v. Challa Upendra Rao*, (2004) 8 SCC 517 : 2005 SCC (Cri) 357] should not be followed, more so in a peculiar fact situation of this case. In the present case, the accident occurred in 1993. At that time, the claimant was 28 years old. He is now about 48 years. The claimant was a driver on heavy vehicle and due to the accident he has been rendered permanently disabled. He has not been able to get compensation so far due to the stay order passed by this Court. He cannot be compelled to struggle further for

recovery of the amount. The Insurance Company has already deposited the entire awarded amount pursuant to the order of this Court passed on 1-8-2011 [*National Insurance Co. Ltd. v. Saju P. Paul* [*National Insurance Co. Ltd. v. Saju P. Paul*, (2013) 2 SCC 41, 55 (footnote 14)]] and the said amount has been invested in a fixed deposit account. Having regard to these peculiar facts of the case in hand, we are satisfied that the claimant (Respondent 1) may be allowed to withdraw the amount deposited by the Insurance Company before this Court along with accrued interest. The Insurance Company (the appellant) thereafter may recover the amount so paid from the owner (Respondent 2 herein). The recovery of the amount by the Insurance Company from the owner shall be made by following the procedure as laid down by this Court in *Challa Upendra Rao* [*National Insurance Co. Ltd. v. Challa Upendra Rao*, (2004) 8 SCC 517 : 2005 SCC (Cri) 357] .”

17. The facts of the case at hand are somewhat identical to the facts of the case mentioned supra because here also we find that the deceased were found travelling as “gratuitous passengers” in the offending vehicle and it was for this reason, the insurance companies were exonerated. In *Saju P. Paul case* [*National Insurance Co. Ltd. v. Saju P. Paul*, (2013) 2 SCC 41 : (2013) 1 SCC (Civ) 968 : (2013) 1 SCC (Cri) 812 : (2013) 1 SCC (L&S) 399] also having held that the victim was “gratuitous passenger”, this Court issued directions against the insurer of the offending vehicle to first satisfy the awarded sum and then to recover the same from the insured in the same proceedings.”

25. The view expressed above, later has been followed by the Hon'ble Apex Court in **Kaminiben** case².

26. Even the facts of the present case are somewhat more or less identical to the facts of the case mentioned supra. In the case referred to above, the deceased was travelling as a gratuitous passenger in the

offending vehicle and therefore, the insurance company was exonerated. In the case on hand, though the claimant was not a gratuitous passenger, he was found to be travelling by hiring the vehicle. In either of the cases, be a gratuitous passenger or a passenger travelling on hire, fundamentally there has been breach of conditions of policy. In **Manuara Khatun**¹, the deceased were found to be travelling in Tata Sumo by hiring, and hence, they were held to be gratuitous passengers. By following the same analogy, even in the present case, though it is found that terms and conditions of policy have been violated, nevertheless, in the facts and circumstances of the case, the principle of pay and recover has to be extended.

27. Though learned counsel for the insurer contended that even if the said principle had to be extended, as the policy limited the liability for maximum of ₹88,000/-, it cannot be fastened with the further liability over and above the same.

28. This argument is fallacious for the reason that when the policy excluded the liability in entirety, still having regard to the facts and circumstances, the principle of pay and recover is being applied, any limitation on the liability would be of no consequence. Therefore, for the reasons mentioned above, we find no good reason to take a different

view than one consistently being followed by the Hon'ble Apex Court, as referred supra.

29. We, therefore, are of the view that the insurer of offending vehicle, which was found involved in causing accident due to negligence of its driver, needs to first pay the awarded sum to the claimant and then to recover the same from the owner of the offending vehicle i.e., 2nd respondent.

30. Accordingly, M.A.C.M.A. No.1125 of 2010 filed by the claimant has to succeed, and is, therefore, allowed and M.A.C.M.A. No.1149 of 2010 preferred by the 2nd respondent, owner of the vehicle, is dismissed. The impugned award passed by the Tribunal stands modified to the extent that the 3rd respondent insurer shall pay the awarded sum to the claimant and thereafter be entitled to recover the amounts so paid by them from the owner of the offending vehicle i.e., 2nd respondent, by filing execution application without resorting to any other proceedings in this respect. No order as to costs.

As a sequel, miscellaneous petitions pending in these appeals, if any, shall stand closed.

LISA GILL, CJ

CHALLA GUNARANJAN, J.