Neutral Citation:_____

Date of reserved for orders	**:**	**22.06.2026**
Date of pronouncement	**:**	**22.06.2026**
Date of uploading	**:**	**23.06.2026**

APHC010068232006

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3396]**
(Special Original Jurisdiction)

MONDAY, THE TWENTY SECOND DAY OF JUNE

TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE DR. JUSTICE VENKATA JYOTHIRMAI PRATAPA

M.A.C.M.A.No: 2491/2006

Between:

NATIONAL INSURANCE COMPANY LTD, THE NATIONAL INSURANCE COMPANY LTD., DIVIISONAL OFFICE: ALI BAIG STREET, VIJAYAWADA.

...APPELLANT

AND

1. SHAIK PYARI JOHN, W/O.LATE SATTUBUDE, AGED 41 YEARS, R/O.ALAVALAPADU VILLAGE, J.PANGULUR MANDAL, PRAKASAM DSITRICT.
2. SHAIK MASTAN BEE, W/O.LATE TAJ SAHEB, AGED 66 YEARS, R/O.ALAVALAPADU VILLAGE, J.PANGULUR MANDAL, PRAKASAM DSITRICT.
3. SHAIK CHAND BEGUM, W/O.SREENU BASHA, AGED 26 YEARS, R/O.ALAVALAPADU VILLAGE, J.PANGULUR MANDAL, PRAKASAM DSITRICT.
4. SHAIK MUMTAJ BEGUM, W/O.KHAJAVALI, AGED 23 YEARS, R/O.ALAVALAPADU VILLAGE, J.PANGULUR MANDAL, PRAKASAM DSITRICT.
5. T VENKATESWARA RAO, S/O.NARASIMHA RAO OWNER OF LORRY NO.AP 16/TU 4601 R/O.D.NO.13-1-165/2, NEAR MUTYALA BUS STAND, JAGGAIAHPET.

...RESPONDENT(S):

Counsel for the Appellant:

1. V VEERABHADRA CHARY

Counsel for the Respondent(S):

1. N SUBBA RAO

The Court made the following:

JUDGMENT:

1. This appeal is preferred under Section 173 of the Motor Vehicles Act, 1988 (for short "M.V.Act") by the Appellant-M/s.National Insurance Company against the Order and Decree dated 27.06.2006 passed by the Chairman, Motor Accidents Claims Tribunal-cum-II Additional District Judge, Ongole (for short "the Tribunal"), in M.V.O.P.No.63 of 2005 granting compensation of Rs.1,49,800/- with interest @ 7.5% per annum thereon from the date of filing of the petition till realization, against the Respondent Nos.1 and 2. For the sake of convenience, the parties are hereinafter referred to as they are arrayed before the Tribunal.

Proceedings before the Tribunal

2. The case of the Petitioners / Claimants, in brief, is as follows:

a. On 23.10.2004 the deceased after purchasing Jujube fruits boarded the lorry bearing No. AP 16 TU 4601 at Santhamagulru to go to his native place and at about 10.30 hours, while the said lorry was coming towards Addanki, the driver of the lorry drove the same in a rash and negligent manner at a high speed, dashed against an electrical pole, due to which the deceased sustained fracture to his right leg and other injuries. He was shifted to Government Hospital, Ongole, from there to Asvini Private Hospital, Guntur for better treatment and while undergoing treatment, he died on 29.10.2004.

b. The Claimants being legal representatives of the deceased filed the petition claiming compensation of Rs.2,50,000/- against the respondent Nos.1 and 2. Hence, the claim petition.

3. The 1st respondent filed written statement contending that the Petitioners have not filed any certificate to show that they are the legal heirs of deceased. It was further contended that the deceased is only seller of fruits and earns Rs.30/- to Rs.40/- per a day. The deceased had not paid any fare to travel in the said lorry. It was further contended that the Petitioners had to prove the age of the deceased and they did not file any medical bills to prove their expenditure.

4. The 2nd Respondent filed written statement contending that the offending vehicle was not insured at the time of the accident; that the compensation and the interest claimed by the Petitioners were excessive and arbitrary. Hence, prayed for dismissal of the petition.

5. During enquiry before the Tribunal, on behalf of the claimants, PWs.1 and 2 were examined and Exs.A.1 to A.4 were exhibited. On behalf of Respondents, the Senior Assistant of Respondent No.2 was examined as R.W.1 and Ex.B.1 policy relating to the offending vehicle was marked.

6. Upon appreciation of the oral and documentary evidence on record, the Tribunal held that the accident occurred due to the rash and negligent driving of the offending vehicle and that the Ex.B.1 policy issued in respect of the said vehicle was in force by the date of incident. Accordingly, a sum of ₹1,49,800/- was awarded as compensation to the Claimants, together with interest at the

rate of 7.5% per annum from the date of the claim petition till the date of realization, payable by Respondent Nos.1 and 2 jointly and several on account of the death of the deceased in the accident.

7. Aggrieved thereby, the insurer of the offending vehicle has preferred the present appeal challenging the liability fixed against the Insurance Company to pay the compensation.

8. Heard Sri V.Veerabhadra Chary, learned counsel for the Appellant/ Insurer. The appeal against Respondent Nos.1 to 4 / Claimants was dismissed for default. Learned counsel for Respondent No.5 / Owner of the offending vehicle did not turn up to submit their arguments.

9. Learned counsel for the appellant/Insurance Company primarily contends that the deceased boarded the lorry midway during the journey and was not the owner of the entire goods being transported in the vehicle. It is further contended that the owner of the vehicle violated the terms and conditions of the insurance policy by permitting the deceased to travel in the lorry as a gratuitous passenger. Therefore, according to the appellant, no liability can be fastened upon the insurer to pay compensation. However, the Tribunal, having considered the material on record, awarded compensation and fixed the liability jointly and severally on both the owner and the insurer of the offending vehicle. Aggrieved thereby, the present appeal has been preferred, seeking interference of this Court.

10. Now, the point that arises for determination in this appeal is; *Whether the appellant/insurance company is liable to pay compensation to the claimants under Ex.B.1 policy issued in respect of the offending vehicle*?

11. A perusal of the record reveals that, upon appreciation of the oral and documentary evidence adduced by both parties, the Tribunal arrived at a finding that the deceased was travelling in the offending lorry in connection with the goods carried therein. P.W.2, an eye-witness to the accident, categorically deposed that the deceased boarded the lorry at Santhamaguluru along with three or four bags of jujube fruits. Further, P.W.1, the wife of the deceased, stated that the deceased, who was a fruit vendor by avocation, had gone to Kurnool District for purchasing fruits on a wholesale basis and was transporting the same in the said vehicle. The evidence on record indicates that the fruits constituted goods being carried in the lorry and were not articles that could ordinarily be carried by hand like personal luggage. Significantly, no evidence was adduced by the insurer to establish that the deceased was travelling in the vehicle unconnected with the goods or that he was a gratuitous passenger.

12. The material available on record clearly demonstrates that the deceased was engaged in the business of vending fruits and had boarded the lorry for the purpose of transporting the fruits purchased by him. Merely because the deceased was not the owner of the entire consignment of goods loaded in the vehicle, it cannot be inferred that he was a gratuitous passenger. The insurer examined R.W.1 and marked Ex.B1–Insurance Policy. The

Tribunal, on consideration of the evidence, recorded a categorical finding that the policy was valid and subsisting as on the date of the accident. The existence and coverage of the insurance policy in respect of the offending vehicle on the relevant date are not in dispute. Except raising a bald plea that the deceased was a gratuitous passenger, the insurer failed to adduce any cogent or convincing evidence to establish breach of the policy conditions. Consequently, the contention of the insurer that it is not liable to satisfy the award cannot be accepted.

13. In **National Insurance Co. Ltd. v. Cholleti Bharatamma**[1], the Hon'ble Supreme Court had categorically held that the owner of the goods or his authorized representative travelling in a goods carriage is covered under the policy in view of the amendment to Section 147 of the Motor Vehicles Act, 1988. It was also observed by the Hon'ble Supreme Court in **United India Insurance Co. Ltd. v. Suresh K.K**[2], that, where the deceased was accompanying the goods belonging to him, he could not be treated as a gratuitous passenger and the insurer would be liable.

14. In the present case, the evidence of P.Ws.1 and 2 clearly establishes that the deceased was a fruit vendor who had purchased jujube fruits and was travelling in the offending lorry along with the said goods. The insurer failed to adduce any acceptable or cogent evidence to prove that the deceased was a gratuitous passenger or that there was any breach of the terms and conditions of the insurance policy. As already discussed, the insurance policy covering

[1] (2008) 1 SCC 423
[2] (2008) 1 SCC 657

the offending vehicle was admittedly in force as on the date of the accident. Therefore, even assuming that the deceased was travelling in the offending vehicle as contended by the insurer, in view of the law laid down by the Hon'ble Supreme Court in the decisions referred to above, the insurer cannot avoid its statutory liability and is bound to satisfy the award. Accordingly, the contention advanced by the Appellant–Insurance Company seeking exoneration from liability is devoid of merit and is liable to be rejected. Having regard to the aforesaid principles laid down by the Hon'ble Supreme Court and in the absence of proof of breach of policy conditions, the Tribunal was justified in fastening liability on the appellant-insurance company jointly and severally with the owner of the vehicle. Consequently, this Court finds no infirmity in the award passed by the Tribunal and the appeal is liable to be dismissed.

15. In the result, the M.A.C.M.A is dismissed. There shall be no order as to costs.

Interim orders granted earlier, if any, stand vacated.

Miscellaneous petitions pending if any, stand closed.

Dr.JUSTICE VENKATA JYOTHIRMAI PRATAPA

Date:22.06.2026
Dinesh

Whether the order is:

Speaking		**Reasoned**	
Reportable		**Non-reportable**	

THE HON'BLE DR. JUSTICE VENKATA JYOTHIRMAI PRATAPA

M.A.C.M.A. No.2491 of 2006

DATE:22.06.2026

Dinesh