
(2025) 10 TH CK 0045

Telangana HC

Case No: M.A.C.M.A. Nos.22 Of 2024, Connected With M.A.C.M.A. Nos.922 Of 2024

Iffco Tokio General
Insurance Co. Ltd

APPELLANT

Vs

Badavath Balkishan
and others

RESPONDENT

Date of Decision: Oct. 15, 2025

Acts Referred:

- Indian Penal Code, 1860 — Section 304(A)
- Motor Vehicles Act, 1989 — Section 149, 168
- Evidence Act, 1872 — Section 106

Hon'ble Judges: Gadi Praveen Kumar, J

Bench: Single Bench

Advocate: A.Ramakrishna Reddy, A.Rajashekar Reddy, S.Surender Reddy

Final Decision: Allowed

Judgement

Gadi Praveen Kumar, J

1. Heard Sri A.Ramakrishna Reddy, learned counsel for the appellant and Sri A.Rajashekar Reddy and Sri S.Surender Reddy, learned counsel for the respondents at length and perused the record.

2. M.A.C.M.A.No.22 of 2024 is filed by the Appellant-Insurance Company being aggrieved by the order passed by the Motor Accidents Claims Tribunal-cum-Principal District Judge at Nizamabad (for short "the Tribunal") in M.V.O.P.No.67 of 2018 dated 03.08.2023 in respect of deceased Badavath Ravi Kumar, who, while travelling along with his friend Sandeep on motor bike, met with an accident with an oil

tanker bearing No. AP- 16TD-4511 (crime vehicle), allowing the claim granting compensation of Rs.31,08,500/- along with interest @ 7.5% p.a.

3. M.A.C.M.A.No.922 of 2024 is filed by the appellant-Insurance Company being aggrieved by the award dated 29.12.2023 passed in M.V.O.P.No.32 of 2018 by the Motor Accident Claims Tribunal-cum-I Additional District Judge at Kamareddy in respect of deceased Sandeep, who along with his friend Badavath Ravi Kumar was travelling on a motor cycle met with an accident with an oil tanker bearing No.AP-16TD-4511, allowing the claim granting compensation of Rs.16,55,625/-proportionately along with interest @ 7.5% p.a.

4. Since, the accident occurred on 22.11.2017 at about 2.30 hours where both the deceased while travelling on bike met with an accident by dashing against an oil tanker. Therefore, both these Appeals are clubbed together and are being disposed of by this common judgment.

5. The facts leading to file claims by the respective claimants before the respective learned Tribunals are that on 22-11-2017 at about 2.30 hours near Dharma kanta enroute to Nizamabad-Dichpally Main Road, Dichpalli, the deceased Badavath Ravi Kumar along with his friend Sandeep started on their motor bike bearing No.TS-16EN-5541, and in the meantime, the driver of tanker (lorry) bearing No.AP-16TD-4511 parked on the road without taking any precautions or giving any signals, due to which the deceased dashed into the backside of the lorry, as result of which both the deceased sustained grievous injuries and died on the spot.

6. The police of Dichpally registered a case in Cr.No.220 of 2017 under Section 304-A IPC against the driver of the offending vehicle.

7. It was contended before the respective learned Tribunals that the deceased Badavath Ravi Kumar in MACMA No.22/2024 is aged 26 years working as Chemical Engineer in Granules India Limited, Jeedimetla and earning Rs.20,717/-, in which the father, mother and sisters are the claimants before the learned Tribunal in MVOP No.67 of 2018.

8. In respect of MACMA No.922 of 2024, the deceased viz., Badavath Sandeep was also aged about 26 years and was a Government employee working as Branch Post Master at Thumpally village of Sirikonda Mandal and earning Rs.16,000/- p.m.. His parents along with brother are the claimants before the learned Tribunal in M.V.O.P.No.32 of 2018.

9. Before the learned Tribunals, the appellant-Insurance Company denied the allegations made against it including its liability to pay compensation to the respondents herein, and pleaded that on verification of the records, it is revealed that the said policy No.1-2MCCWVVT was issued in favour of one Appanna Kishore Babu for the vehicle bearing No.AP-16TB-2240 and the period of insurance covered by the said policy is from 02.03.2014 to 01.03.2015. It was further contended that the appellant-Insurance Company has not issued any insurance policy No.1-2MCCWVVT valid from 05.03.2017 to 04.03.2018 in favour of owner of vehicle bearing No.AP-16TY-4511. Therefore, the said policy is a forged and fabricated document. It is also contended that the amounts claimed are excessive.

10. It was contended by the appellant in respect of M.V.O.P.No.32 of 2018 that the policy document submitted before the police and mentioned in the Claim Petition are false and fabricated, which were brought into existence with a mala fide intention. The Oil Tanker (lorry) bearing No.AP-16TD-4511 was not issued with the said policy and that there was negligence on the part of the driver of the motor bike since at the time of accident, the rider of the motor cycle bearing No.TS-16EN-5541 drove the said vehicle in rash and negligent manner and dashed the oil tanker, which was stationed on the road by taking full precautions. It was further contended that the accident occurred due to the total negligence on the part of the deceased only. And that the claim petition is bad for non-joinder of necessary parties as the owner and insurer of motor cycle bearing No.TS-16EN-5541 are necessary and proper parties. Therefore, contended that on this ground, the claim petition is liable to be dismissed.

11. In M.V.O.P.No.67 of 2018, the learned Tribunal framed the following issues and Additional issue for consideration:

1) Whether the accident took place on 22.11.2017 at about 2.30 hours near Dharma Kanta, Opp. Jio Shop, Dichpally, RS on Nizamabad Dichpally Main Road, Dichpally Mandal, Nizamabad District under the limits of PS Dichpally due to rash and negligent driving of Oil Tanker bearing No.AP-16TD-4511 by its owner causing the death of Badavath Ravi Kumar?

2) Whether the petitioners are entitled for compensation? If so, to what extent and from whom?

3) To what relief? Additional Issue:

4) Whether the owner of the vehicle bearing No.AP-16TD-4511 obtained insurance policy coverage for the said vehicle by the time of accident?

12. In M.V.O.P.No.32 of 2018, the learned Tribunal framed the following issue for consideration:

1) Whether the accident occurred due to rash and negligent driving of driver of oil tanker lorry bearing No.AP-16TD-4511?

2) Whether the petitioners are entitled for the compensation, if so, from whom and what just amount?

3) To what relief?

13. In respect of M.V.O.P.No.67 of 2018, the claimants examined P.Ws.1 and 2 and Exs.A-1 to A-9 were marked. On behalf of the appellant-Insurance Company, R.W.1 was examined and Exs.B-1 to B-9 were marked.

14. In respect of M.V.O.P.No.32 of 2018, the claimants examined P.Ws.1 and 2 and Exs.A-1 to A-10 were marked. On behalf of the appellant-Insurance Company, R.W.1 was examined and Exs.B-1 to B-6 were marked.

15. Sri A.Ramakrishna Reddy, learned counsel for the appellant vehemently contended that the learned Tribunals failed to appreciate that the appellant-Insurance Company never issued any policy to the crime vehicle bearing No.AP-16TD-4511 and that the policy produced before the learned Tribunals is fake and fabricated one.

16. It was further contended by the learned counsel for the appellant that the learned Tribunals failed to appreciate the fact that in order to prove the insurance policy, the appellant-company has adduced its evidence by examining R.Ws.1 and 2 and exhibiting Exs.B-1 to B-9, wherein it was brought to the notice of the learned Tribunal that the Motor Insurance Policy P400 issued by it consists of 8 digits i.e. Number or Alpha-numeric, whereas in the case on hand, as per the Motor Vehicle Inspector report, the particulars mentioned in the claim petition P400 policy is mentioned as 9968567, which is of 7 digits only. Therefore, it is contended that the policy produced by the appellants is a fake policy and the appellant Insurance Company never issued any policy to the crime vehicle and that the learned Tribunals without appreciating the same, erroneously mulcted the liability.

17. Learned counsel for the appellant vehemently contended the learned Tribunals failed to appreciate the fact that the photocopy of the policy produced and marked by the claimants i.e. I-2MCCWVVT is issued in respect of vehicle bearing No.AP-16TB-2240 vide policy No.1-2MCCWVVT-P400-86913412 which is valid from 02.03.2014 to 01.03.2015, whereas the crime vehicle in the present case is AP-16TD-4511 and the date of accident is 22.11.2017, and that in spite of bringing the said fact to the notice of the learned Tribunals, the Tribunals, without considering the same, erroneously fastened the liability.

18. It was further contended by the learned counsel for the appellant that the learned Tribunals failed to appreciate the fact that immediately after noticing the fake policy, the appellant Insurance Company has lodged complaint before the Commissioner of Police, Vijayawada and also issued notices to the 1st respondent and also to the Road Transport Authority, Vijayawada, which itself is a bona fide truth of taking positive steps which are required to be taken by the appellant company, and that the learned Tribunals, for the best reasons known, fastened the liability on the appellant holding that it is a dispute between the Owner of the vehicle and Insurance company and rights of third party cannot be affected, and the said finding of the learned Tribunals is erroneous and contrary to the settled law.

19. Learned counsel for the appellant further contended that the learned Tribunals have failed to appreciate the basic principle of contract of insurance that it is not a violation or breach as to the terms and conditions of the Policy, but there is no policy issued at all by the appellant Company. As such, the findings of the learned Tribunals that the dispute is between the owner of the vehicle and Insurance Company and rights of third party cannot be affected, is not at all correct and it is erroneous and contrary to the basic principle of contract of insurance, and as such, on this ground also, the claims made by the claimants are liable to be rejected.

20. Learned counsel for the appellant further contended that when there is no contract of insurance, ordering pay and recovery does not and cannot arise at all and that the appellant-insurance Company is not liable to satisfy the awards passed by the respective Tribunals under Section 168 of the Motor Vehicles Act, 1989 (for short "the Act"™) and that the Insurance Company is entitled to seek protection under Section 149 of the Act.

21. Learned counsel for the appellant also contended that the learned Tribunals failed to appreciate that the deceased drove the motor cycle with uncontrollable speed rashly, negligently without following traffic rules and wearing helmet, and because of his speed, he could not control his vehicle and dashed to the lorry from behind and contributed for the cause of accident, and therefore, the deceased himself is the main instrumental to the commission of offence and thereby the Insurance Company is not liable to pay the compensation. Learned counsel for the appellant further contended that in the absence of examination of employer, the learned Tribunals relying on the self-serving statement of claimants held the earnings of the deceased persons as Rs.20,717/- and Rs.16,000/- per month respectively and calculated the compensation on that amount, is excessive and contrary to the settled law.

22. Learned counsel for the appellant finally contended that the claim of the claimants is liable to be dismissed for non-joinder of necessary and proper parties i.e. the insurance company of the two wheeler has

not been made as a party.

23. On the other hand, Sri A.Rajashekar Reddy and Sri S.Surender Reddy, learned counsel for the respondents in both the Appeals vehemently contended that orders passed by the learned Tribunals are well reasoned based on material available on record and evidence therein. It is further contended that in the absence of any crime being registered against the owner of the vehicle nor any FIR is lodged against the fake document, the burden of proof lies on the Insurance Company to disprove the version. Learned counsel for the respondents further contended that the claimants being a third party, can only produce photocopy of the insurance policy document whereas the owner of the crime vehicle is not examined, and as such, the liability is cast upon the Insurance Company to pay the compensation.

24. Learned counsel for the respondents finally contended that the orders passed by the respective learned Tribunals are well reasoned and do not call for any interference and the Appeals are liable to be dismissed.

25. On perusal of the evidence adduced before the respective learned Tribunals, during cross-examination of P.W.1 Badavath Balkishan, one of the claimant in M.V.O.P.No.67 of 2018 admitted that he is not an eye-witness to the incident and he is not in a position to say the registration number of the crime vehicles. During cross-examination of P.W.2 Pawar Mohan, another claimant deposed that the deceased belongs to his caste and that the motor cycle hit the stationed lorry tanker from the back side and the accident occurred at 2.30 A.M., and that the road where the accident took place is of 80 feet width with a divider.

26. R.W.1 D.V.K. Prasad, Manager - Claims Legal of appellant Company deposed during his chief-examination that the Oil Tanker bearing No.AP-16TD-4511 is not insured with the appellant-Insurance Company and that there is no existing policy in respect of the said Oil Tanker covering the risk of accident as on the date of accident, and that the Insurance Policy on which the respondents relying was not issued by the appellant-Company and it is a fake and fabricated insurance policy and as such, in the absence of contract of insurance between the appellant and the respondent Nos.1 and 2, the appellant Company has no liability to indemnify the owner of the vehicle and as such, the claim against the appellant is liable to be dismissed. R.W.1 further deposed that on verification of records of the appellant-Company, the Xerox copy of the policy submitted by the claimants i.e. 1-2MCCWVVT was issued to vehicle bearing No.AP-16TB-2240 vide policy No.1-2MCCQCCR-P400-86913412 valid from 02.03.2014 to 01.03.2015, and as such, the appellant Company has not issued any policy covering the date of loss (22.11.2017) for the crime vehicle bearing No.AP-16TD-4511 and that the policy filed by the claimants is fabricated for the purpose of false claim, and pleaded that the appellant-Company is not liable to pay compensation to the claimants. R.W.1 further deposed in his evidence that the claim petition was filed suppressing the fact of No Policy Coverage and the claim petition is liable to be dismissed with heavy costs under Section 35(A) of the Act and that the claim petition is bad for mis-joinder of parties.

27. With respect to the evidence of R.W.2, he also pleaded that the Oil Tanker is not insured with the appellant Company and there is no existing policy in respect of the said Oil Tanker covering the risk of accident as on the date of accident i.e. 22.11.2017, and the insurance policy, on which claimants are placing reliance, is not issued by the appellant-Company and it is a fake and fabricated insurance policy created for the purpose of this case and as such, there is no contract of insurance between the appellant Company and the owner to indemnify the owner and sought for dismissal of the claim petition. R.W.2 further deposed that as per the Insurance Premium Register dated 05.03.2017, the Appellant Insurance Company has not collected any premium for vehicle bearing No.AP-16TD-4511 and there is no existing policy for the said vehicle covering the risk as on the date of accident. To substantiate the same, R.W.2 produced the Premium Register dated 05.03.2017 for the insurance policies issued by the appellant-company and the same is also marked as Ex.B-9.

28. However, during cross-examination R.W.2 stated that Ex.B-9 is a computed generated data of transaction obtained from Vijayawada Branch, and that the name of insured and the code of the agent are mentioned therein. He further stated that the data in Ex.B-9 pertains to the period from 01.03.2017 and 15.03.2017, and that the appellant company is not liable to pay any compensation.

29. On perusal of the documents marked in M.V.O.P.No.67 of 2018, Ex.A-1 is the certified copy of the F.I.R., Ex.A-2 is the certified copy of charge sheet, Ex.A-3 is the copy of the Post Mortem Examination report, Ex.A-4 is the attested copy of the driving licence, Ex.A-5 is the copy of consolidated Marks Memo of deceased Ravi Kumar, Ex.A-6 is the copy of Provisional Certificate of deceased Ravi Kumar. ExA-7 is the attested copy of salary of the deceased Ravi Kumar and Ex.A-8 is the copy of the insurance policy certificate issued by the appellant-company and Ex.A-9 is the copy of accident report from the Motor Vehicle Inspector. Whereas Ex.B-1 is the office copy of notice dated 15.05.2018 issued to the owner of the Oil Tanker and RTA, Vijayawada, Ex.B-2 is the Postal receipts, Ex.B-3 is returned postal cover of the owner of oil tanker, Ex.B-4 is the postal acknowledgment of RTO Office, Vijayawada, Ex.B-5 is the copy of complaint to the Police Commissioner, Vijayawada regarding fake policy dated 27.06.2018 issued by Registered Post With Acknowledgment Due, Ex.B-6 is postal receipt, Ex.B-7 is postal acknowledgment for Ex.B-5, Ex.B-8 is the Insurance Policy No.1-2MCCWVVT-P400-86913412 (with eight digits) and Ex.B-9 is Insurance Premium Register dated 05.03.2017 for the insurance policies issued by the appellant-Company.

30. On examining the documents marked, in Ex.A-2 copy of charge sheet relied upon by the respondents, it was mentioned that the owner of the vehicle voluntarily confessed to have committed the offence and produced the driving license, Registration Certificate and Insurance, and the same were verified as valid document, appears to be issued for the purpose of obtaining bail. Similarly, Ex.A-8 is photo copy of the policy of the appellant insurance Company, which as pointed out by the learned counsel for the appellant

that in the said policy at the left side, the Registration Number refers to AP-16TD-4511, but at the right side mentioned as "Policy :1-2MCWVT P-400 Policy # 9998567"™. Whereas in the MVI report Ex.A-9, the policy number is mentioned as 9998567. Learned counsel for the appellant contended that the insurance policy is altered and fabricated since, it is a 7 digit number, it should be specifying the existence of 8 digits as it should have been 86913412 as marked at Ex.B-8.

31. Ex.B-1 is the office copy of the notice issued by the appellant Company to the owner of the vehicle with respect to Fake Policy/Cover Note bearing No.9968567 of the vehicle bearing No.AP-16DT-4511. Ex.B-5 is the complaint dated 27.06.2018 addressed to the Commissioner of Police, Vijayawada complaining regarding registration of FIR for investigation/ Enquiry regarding issuance of fake/forged policy bearing No.9968567, which was never issued by the appellant-Company, and requested the Commissioner of Police to take cognizance of the matter and register a complaint under the provisions of law and investigate into the matter in order to penalize the culprits involved in such illegal activities.

32. On careful perusal of the documentary record discloses marked infirmities in the policy document relied upon by the claimants. The alleged policy bearing No. 1-AMCCWT/P400 Policy No. 9995677 is deficient in several material respects. It is devoid of any QR code or digital authentication feature, contains no GST number, no SAC code, no record of prior policy history for the vehicle for the relevant policy period. The totality of these discrepancies demonstrates that the document does not possess the authenticity expected of a genuine insurance certificate.

33. Per contra, the document produced and relied upon by the appellant-insurer, namely Policy No. 1-2MCCWVVT-P400-86913412, is in the insurer's™ prescribed official format, carries a QR code and digital authentication, and corresponds with the entries in the insurer's™ Policy Issue Register and database. The insurer has, therefore, produced verifiable contemporaneous records which prima facie contradict the authenticity of the document presented by the claimants.

34. This court is of the view that it is a fundamental principle of evidence and logic that no litigant can reasonably be required to prove a negative fact. It is neither practicable nor just, to compel the insurer company to demonstrate affirmatively that it did not at any time issue a particular instrument which the claimant produces as the basis for a claim. The law does not countenance requiring a party to undertake the impossible rather, the onus remains upon the party who asserts the positive fact. Here, that a valid insurance policy covering the vehicle existed at the time of the accident, is to prove that assertion.

35. Where an insurer, in proper exercise of its rights, places before the Tribunal credible and verifiable records negating the existence of the policy relied upon by a claimant, the evidentiary onus shifts upon the claimant to satisfactorily account for and prove the source and genuineness of the document produced. It is not open for the claimant to rest on a photocopy of an unverified document when the insurer has produced cogent, official records showing non-correspondence between the claimant's document and the insurer's books.

36. Section 106 of the Indian Evidence Act, 1872 states:

“The procurement, source and authenticity of an alleged insurance certificate are matters peculiarly within the knowledge and control of the person who asserts the existence of that certificate. Accordingly, the claimants, having relied upon the disputed policy, must furnish credible evidence, such as premium paid cash receipts, e-mail confirmation of the said policy or other contemporaneous electronic communications from the insurer to demonstrate the authenticity of the said policy.”

37. This court reiterates that the evidence tendered in support of a civil liability must be authentic, reliable and of unimpaired integrity. A photocopy of a document, inconsistent with the issuing authority's official records and lacking all customary authentication marks, cannot be permitted to found legal liability.

38. Therefore, no privity of contract has been established between the owner of the offending vehicle (AP-16TD-4511) and the appellant-Insurance Company for the relevant period. The learned Tribunal's finding that the insurer must first discharge the award and thereafter recover from the owner is unsustainable where the very existence of the asserted contract of insurance remains unproved.

39. As relied by the claimant in the judgment of the High Court of Sikkim, Gangtok before the learned Tribunal in Branch Manager, Oriental Insurance Company Limited Vs. Padam Behadur Rai and others MAC Appeal No.7 to 2020 to 09 to 2020 wherein there was no complaint lodged. The said case has no relevance to the present case on hand, since a complaint was lodged by the appellant-Insurance Company before the Commissioner of Police, Vijayawada as well as issued notice to the owner of the crime vehicle.

40. The other judgment relied upon by the learned counsel for the claimants before the learned Tribunal in Oriental Insurance Company Vs. Jayeshbhai Bhagubhai Patel C/FA/4114/2009 dated 28.01.2022 to contend that the dispute regarding the fake policy is between the owner of the vehicle and the Insurance Company and rights of the third party claimant cannot be affected and that the insurance policy has neither entered into any notice correspondence with the owner of the vehicle regarding such policy being fake nor any legal

proceeding is found to be initiated against the owner of the vehicle or any such other person by the Insurance Company regarding the fake policy. Therefore, the Insurance Company cannot shrug away its liability to pay the compensation.

41. The facts of the aforesaid case are not applicable to the facts and circumstances of the present case, though in the above case the insurer had alleged that the policy produced by the claimant was fabricated, the Court therein had reached its conclusion on account of the insurer's failure to substantiate such allegation with any contemporaneous record or official proof. The finding was thus based on the insufficiency of the insurer's evidence, not on any legal principle absolving claimants from proving the authenticity of the policy they rely upon. In the case on hand, the situation is materially different, the appellant-Insurance Company has produced original policy and a complaint lodged with the Commissioner of Police, Vijayawada, thereby providing affirmative and verifiable proof that the disputed policy was never issued by it.

42. For the aforesaid reasons and mindful of sympathy for the grievous human loss to the claimants, this Court is unable to fix any liability on the appellant-Insurance Company in the absence of existence of a valid insurance policy covering the crime vehicle on 22nd November, 2017.

43. In view of the above discussion, this Court holds that the findings recorded by the learned Tribunals are erroneous and orders passed are liable to be set aside.

44. Accordingly, M.A.C.M.A.No.22 of 2024 and M.A.C.M.A.No.922 of 2024 are allowed. Consequently, the orders passed by the learned Tribunals in M.V.O.P.No.67 of 2018 and M.V.O.P.No.32 of 2018 respectively are set aside.

45. However, liberty is granted to the claimants to avail appropriate remedies open to them at law against the owner of the vehicle to claim compensation by proving the genuineness of the insurance policy.

46. As a sequel, interim orders, if any granted in the Appeals stands closed. Miscellaneous applications pending, if any, shall stand closed. No order as to costs.