

## Cherlapalli Yellamma Vs Shaik Hussain

**Court:** Andhra Pradesh High Court

**Date of Decision:** Sept. 11, 2014

**Hon'ble Judges:** B. Chandra Kumar, J

**Bench:** Single Bench

**Advocate:** Ch. Dhanjaya, Advocate for the Appellant

### Judgement

B. Chandra Kumar, J.

Challenging the part of the award, dated 17.10.2003, passed In OP No. 207 of 1995 by the Motor Accidents

Claims Tribunal-cum-II Additional District Judge, West Godavari District, Eluru, that went against them holding that the 6th respondent-United

India Insurance Company herein is not liable to pay compensation to them, the claimants filed the present appeal.

2. It is not necessary to refer all the details of this case, suffice to say that two vehicles bearing No. AP-04T-1070 and the vehicle bearing No.

AIK 5758 are involved in the accident. The FIR allegations go to show that the driver of the lorry bearing No. AP-04T-1070 drove the same in a

rash and negligent manner and dashed against the lorry bearing No. AIK 5758. The Tribunal also came to the conclusion that the driver of the

lorry No. AP-04T-1070 had driven the same in a rash and negligent manner at high speed. The Tribunal came to the conclusion that the claimants

are entitled to Rs. 1,50,000/- as claimed by them. The Tribunal referring to the contents of FIR came to the conclusion that the deceased was

travelling in the lorry No. AP-04T-1070 and therefore the Insurance Company is not liable to pay compensation. The case of the claimants is that

the deceased was standing at a tea bunk and due to the rash and negligent driving of the lorry No. AP-04T-1070 the said lorry dashed against

another lorry and both the lorries hit the deceased and fell upon the deceased.

3. RW.1 was examined on behalf of another Insurance Company i.e., 3rd respondent-Oriental Insurance Company and according to him the

police filed charge sheet against the driver of the lorry No. AP-04T-1070 and therefore their Insurance Company is not liable to pay

compensation. On behalf of the 6th respondent-United India Insurance Company nobody was examined before the Tribunal. The Tribunal based

its findings merely on the basis of the contents of the charge sheet. When there is direct evidence of PW.2 who is no other than the son of the

deceased and when no other person was examined on behalf of the Insurance Company to prove the contents of charge sheet the Tribunal

committed an error in just basing its findings on the basis of contents of charge sheet. The contents of charge sheet only reveal allegations. They

cannot be taken as proved fact. If the contents of charge sheet are taken as established facts there is no need of conducting any trials in the criminal

courts. Therefore, unless the contents of FIR or charge sheet are proved by leading independent evidence those contents cannot be looked into.

Even while referring to the contents of FIR also such contents can be used only for the purpose of corroboration or contradiction of the statements

of maker i.e., the complainant who lodged the complaint.

4. This Court in case between Badavath Janna Bai Vs. Smt. Afsari Begum and Another, , has categorically held that the contents of charge sheet

cannot be looked into as gospel truth. Therefore, the finding of the Tribunal on this aspect is set aside and the order of the Tribunal is also modified

to that extent. I am of the considered view that the 6th respondent-United India Insurance Company is liable to pay compensation to the claimants

as per the orders of the Tribunal.

5. Accordingly, the MACMA is allowed. However, in the circumstances, no costs.

6. As a sequel, the miscellaneous petitions, if any, pending in this appeal shall stand cancelled.