

**National Insurance Company Ltd. v. Komaravolu Srinivasa Bharadwaj, 2023 SCeJ 0206 (AP)**

ANDHRA PRADESH HIGH COURT

*T. Mallikarjuna Rao J.*

**National Insurance Company Ltd. v. Komaravolu Srinivasa Bharadwaj**

M ACMA No.2590 of 2012

04.03.2023

**Motor Vehicles Act, 1998, S. 166, S. 168 - FIR - Delay - Although lodging of F.I.R. is vital in deciding motor accident claim cases, delay in lodging should not be treated as fatal for such proceedings if the claimant has demonstrated satisfactory and convincing reasons.**

**Motor Vehicles Act, 1998, S. 166, S. 168 - Negligence - Offending vehicle's driver not produced - Effect of - A standard rule is for the claimant to prove negligence - But in accident cases, hardship is caused to the claimants as the actual cause of the accident is not known to them but is solely within the knowledge of the respondents who caused it - It will then be for the respondents to establish the accident was due to some other cause than their negligence - This Court views that the offending vehicle's rider is the best person to speak about the manner of the accident or non-involvement of the offending vehicle in the accident - Insurance company has not taken steps to prove its contention by summoning the offending vehicle's rider - Finding of negligence - Upheld. Motor Vehicles Act, 1998, S. 166, S. 168 - Negligence - FIR - Chargesheet - F.I.R. or Police Papers, when made part of a claim petition, can be looked into for giving a finding regarding the accident - Investigation was conducted based on the report and laid the charge sheet against the driver of the offending vehicle - It is not the Insurers' case that material facts relating to the accident are suppressed or fabricated because of the delay - If that is so, those facts would have come out in the investigation - Nothing on record suggests that the Investigating Officer filed a charge sheet against the offending vehicle's driver without conducting a proper investigation - It is also difficult to hold that the Police Officer fabricated a case - In a proceeding under the M.V. Act, where the procedure is a summary procedure, there is no need to go by strict rules of pleading or evidence - The document having some probative value, the genuineness of which is not in doubt, can be looked into by the Tribunal for getting preponderance of probable versions - The preponderance of probabilities is the touchstone for concluding rashness and negligence and the accident's mode and manner of happening.**

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