

Oriental Insurance Company Ltd. Vs. Tata AIG General Insurance Company Ltd. and Ors.

Civil Appeal No. _____ of 2026 @ SLP (C) No. 14988 of 2023 · Supreme Court of India · 2026-02-24 · Sanjay Kumar · K. Vinod Chandran · F2J-C-1164

Full judgment text

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1. Leave granted.

2. The appeal essentially raises the question of which insurance company has the liability to satisfy the award in favour of the claimant, injured in the collision of two vehicles. The brief facts to be noticed are that on 19.05.2013 at around 11:00 pm, there occurred a collision between a trailer and a truck. The trailer is insured by the appellant herein while the truck is insured by the respondent insurance company. The Tribunal, looking at the evidence of the claimant, who was a Cleaner in the truck and travelling in it, found negligence on the truck driver. The High Court, on an appeal by the insurer of the truck reversed the findings of the Tribunal and put the liability on the insurer of the trailer.

3. Admittedly, the trailer was moving in front and the truck behind it. The allegation in the claim petition was that the sudden brake applied by the trailer resulted in a collision, injuring the cleaner grievously. The trailer driver applied brakes negligently contends the respondent while the appellant asserts negligence on the truck driver who failed to maintain sufficient gap between the vehicles.

4. Mr. Amit Kumar Singh, learned counsel for the appellant relied on Nishan Singh & Ors. v. Oriental Insurance Company Ltd. through Regional Manager & Ors.¹ It was submitted that the claimant himself had admitted that the truck driver was negligent.

5. Mrs. Shantha Devi Raman, learned counsel for the respondent insurance company relied on National Insurance Company v. Chamundeswari and Others² in which Nishan Singh¹ was distinguished. It is also pointed out that the claimant in further cross examination clearly stated negligence of the driver of the trailer and in any event, the driver of the trailer had confessed to his negligence in the criminal case filed, the details of which were produced along with an affidavit dated 09.09.2025.

6. We see from the evidence of the claimant that when the trailer applied its brakes, the truck driver also applied his brakes, but was unable to control his vehicle since the truck was travelling at a distance only of 20 feet from the trailer. It was also deposed that if a truck moves at a speed of 30-40 km per hour, then it should maintain a gap of 40-50 feet, to ensure effective control of the vehicle. A suggestion was answered in the affirmative that if the truck had maintained a distance of 40-50 feet, then the accident could have been averted.

On cross examination of the counsel for the insurer of the truck, a suggestion that the driver of the truck was driving slowly and that the accident took place due to the negligence of the trailer driver was answered in the affirmative. However, this does not dislodge the categorical assertions made earlier, especially with respect to the distance maintained between the two vehicles, the responsibility of which squarely falls on the vehicle at the back; here the truck

7. We are unable to place any reliance on the documents placed with respect to FIR No.41 of 2013, since a perusal of the same does not indicate the details of the accident which led to the registration of the crime, nor does the record before us disclose the crime number of the case registered based on the accident.

8. We cannot but observe that even if the conviction, on a confession and release invoking the provisions of the Probation of Offenders Act, 1958, is reckoned, in reality this is a measure employed in a prosecution launched based on motor accidents so as to bring a quietus to the proceedings.

9. In any event, this cannot upset the evidence led before the Tribunal. In Chamundeswari² the facts indicate that an Eicher van which was driven in front of the car took a sudden right turn which resulted

in the car following colliding with the van. This Court in fact refused to give weightage to the contents of the FIR, which were to the contrary, finding that what matters before the Tribunal is the evidence led before the Tribunal.

In the present case, there was no attempt by the respondent insurance company, the insurer of the truck to examine the driver of the truck or that of the trailer or at least produce the records now produced, before the Tribunal. The criminal case No.133 of 2013, alleged to be one on the very same accident, was concluded on 16.07.2013 long before the disposal of the claim petition by the Tribunal on 14.01.2019 as per Annexure P-2.

10. We also have to notice Nishan Singh¹ which dealt with a similar case of a car following a truck at a distance of 10 to 15 feet which was found to be not a sufficient distance as mandated by law, especially looking at Regulation 23 of the Rules of the Road Regulations, 1989. Regulation 23 provides that the driver following another vehicle should maintain sufficient distance from the vehicle going in the front to avoid a collision, keeping in mind the possibility of a sudden slowing down or stoppage.

The Regulation has to be followed by the drivers on the road failing which it would be deemed to be negligent driving. In this case, the Cleaner of the vehicle who was travelling inside the truck categorically stated that the distance between the two vehicles was only 20 feet.

He is a person conversant with road safety norms, we should presume, by virtue of his avocation and he also categorically stated the safe distance to be maintained to avert an accident. The Cleaner deposed to the fact that the distance kept by his driver from the vehicle moving in the front was not adequate and sufficient so as to control the vehicle at the back, if the vehicle at the front abruptly stopped.

11. We are of the opinion that the High Court erred in reversing the well-considered order of the Tribunal based on the evidence led before it. We, hence, reverse the order of the High Court and restore that of the Tribunal, mulcting the liability on the respondent insurance company in the above appeal.

12. The learned counsel for the respondent persisted and attempted to persuade us to find contributory negligence; for which we find absolutely no valid evidence.

13. The appeal stands allowed.

14. Pending application(s), if any, shall stand disposed of.

.....J. (Sanjay Kumar)

.....J. (K. Vinod Chandran)

New Delhi;

February 24, 2026.

1 (2018) 6 SCC 765

2 (2021) 18 SCC 596

Source disclosure: Complete sanitized public judgment text retained for research; official-primary replacement remains pending.

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