

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

MACMA MP No.3758 OF 2010

IN/AND

MACMA No.2577 OF 2015

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ORDER:

This appeal is filed challenging the order dated 02.11.2009 in M.V.O.P.No.127 of 2008 on the file of Motor Accidents Claims Tribunal-cum-VI Additional District Judge(III F.T.C.), Warangal at Mahabubabad.

2. The insurer, who is the 2nd respondent in the above said O.P. is the appellant herein. The compensation of Rs.1,50,000/- was claimed under Section 166 of the Motor Vehicles Act (for short 'the Act') for the injuries sustained by the claimant and the Tribunal after evidence, for fracture of 5th metacarpal right, fracture of 10th rib of chest right side, contusion over right knee and fracture proximal phalanx of right big toe, in all awarded with joint liability against the insurer of Rs.36,000/- with interest at 7.5% p.a. by the award dated 02.11.2009 and impugning fixing of joint liability saying despite driver has no valid driving license that is deposed by employee of the insurer as RW.1 with Ex.B1 extract showing only got non-transport light motor vehicle, the appeal is filed with the delay of 186 days. The delay is condoned and at request of both sides while directing the Registry to number the appeal, taken up the appeal for hearing. Heard and perused the material on record.

3. The 1st respondent/claimant is contesting through advocate and

the 2nd respondent herein is the owner of auto. The driver was not a party to the claim and appeal. The un-numbered appeal is dismissed for default against the 2nd respondent/owner on 18.02.2013 as notices not served and steps also not taken. So far, no restoration petition is filed. The learned counsel placed reliance on **Meka Chakra Rao vs Yelubandi Babu Rao @ Reddemma** saying as being 1st respondent to the claim petition remained exparte there no way party to the appeal even impleaded and dismissed for default, that is no way come in the way to the maintainability of the appeal. Same is recorded of the 2nd respondent (1st respondent before Tribunal) not a necessary party to the appeal.

4. There from, coming to the merits, the Tribunal came to the conclusion that the insurance company did not choose to examine the RTA officials, who issued Ex.B2, driving license and that Ex.B2 appears to be not genuine, by placing reliance from the cross examination of RW.1 and that charge sheet no way speaks not having license, thereby, not relied on Ex.B1 and evidence of RW.1 to say driver of the 1st respondent of claim petition not having valid license, even to interfere with the joint liability fixed, impugned in the appeal, for the poultry compensation awarded to the claimant, for even no cross objections of claimant to enhance. Hence, there is nothing to interfere with the conclusions arrived by the Tribunal.
 5. Accordingly, the appeal is dismissed. No order as to costs.
 6. Miscellaneous petitions pending if any, shall stand closed.
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Dr. B. SIVA SANKARA RAO, J

Date:04-11-2015

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