

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

MACMA No.2908 OF 2015

JUDGMENT:

The 3rd respondent-Insurer among the three respondents including rider and owner of the crime motor cycle bearing No.AP03/N 5797 of the O.P.No.206 of 2006 on the file of the Chairman, Motor Accidents Claims Tribunal–cum-VIII Additional District Judge (Fast Track Court),at Chittoor (for short, ‘the Tribunal’) maintained the claim under Section 166 of the Motor Vehicle Act,1988 (*for short, ‘the Act’*), by the claimant-Injured for the claim of Rs.1,50,000/-(Rupees one lakh fifty thousand rupees only) for the injuries sustained by him in the accident dated 25.11.2005, aggrieved by the award dated 24.05.2011 passed by the tribunal granting compensation of Rs.65,065/- with interest at 7.5% p.a. by fixing liability against all the respondents, preferred this appeal with the contentions in the grounds of appeal that the tribunal failed to see that the rider of the crime vehicle-1st respondent is not having valid driving licence to drive the Motor cycle with gear by believing the evidence of R.W.1-employee of Insurance Company, hence to exonerate the Insurer from liability.

2. It is impugning the same, the unnumbered appeal is filed along with a petition vide MACMAMP No.4768 of 2011 to condone the delay of 26 days in preferring the above appeal and for the reasons stated in the affidavit, the delay is condoned and the registry is directed to number the unnumbered appeal if it is otherwise in order and the appeal is taken up for hearing.

3. Heard the learned counsel for the appellant-Insurer and also learned counsel for the 3rd respondent-claimant and the respondents 1 and 2 who are the rider and owner of the crime vehicle even impleaded, the appeal dismissed for default against the 1st respondent-rider vide Court order dated 16.03.2015 and the 3rd respondent-owner served but not appeared taken as heard and

perused the material on record.

4. The learned counsel for the appellant reiterated the contentions in the grounds of appeal, whereas, the learned counsel for the 1st respondent-claimant that the award of the tribunal holds good and there is nothing to interfere, hence to dismiss.

5. As per the evidence of R.W.1, the Ex.B.1 driving license is issued by Additional Licensing Authority, Tirupati to R.1 and as per Ex.B.2 policy shows that it is not meant for riding a motor cycle with gear and the crime vehicle is a motor cycle with a gear. Having even considered the same, the tribunal fixed liability on the appellant-Insurer to the extent of pay and recovery and for this Court while sitting in appeal there is nothing to interfere with the award of the tribunal.

6. In the result, the appeal is dismissed with no costs. Consequently, miscellaneous petitions, if any pending in this appeal, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 15.12.2015

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