

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

M.A.C.M.A.No.4615 of 2008

JUDGMENT:

The petitioner is no other than wife of the deceased even shown her son as 1st respondent being owner of the lorry bearing No.AP-04-U-4424, in which the deceased was travelling with a claim as owner or attender of the goods, which is banana load, maintained the claim against the owner and insurer of the lorry supra and also against owner and insurer of another lorry bearing No.AHK-8249, under Section 166 of Motor Vehicles Act for compensation of Rs.8,00,000/- in O.P.No.56 of 2005 on the file of Motor Accidents Claims Tribunal-cum-II Additional District Judge, Kadapa, for reasons better known the claim not pressed against respondent Nos.3 and 4 other vehicle owner and insurer, that was dismissed before the Tribunal. Ultimately the Tribunal dismissed the claim from saying the deceased was no other than father of the 1st respondent, owner of the lorry insured with the 2nd respondent and evidence on record shows he was doing electrical business and it cannot be believed of his doing banana business to give any credence apart from cannot be considered the owner of the goods or attender of the goods. It is impugning the same, the appeal filed by the appellant.

One of the submissions by the learned counsel for the appellant that the lower Court advocate without proper knowledge and consent of the parties not pressed claim against respondent Nos.3 and 4 though having been impleaded and under Section 168 of the Act *inter se* claim between rival respondents also can be

adjudicated by the Tribunal and thereby they are necessary parties hence it requires remand.

Having regard to the above, the dismissal order of the Tribunal in O.P.No.56 of 2005 is set aside and the matter is remanded to the Tribunal by permitting the claimant to file application under Order 1 Rule 10 CPC read with Section 151 CPC to revive the claim against respondent Nos.3 and 4 by setting aside the dismissal from not pressing and consequent to decide the claim on merits.

Accordingly and in the result, the appeal is allowed and remanded to the Tribunal.

Consequently, miscellaneous petitions, if any shall stand closed. No costs.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 08.09.2016
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