

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

M.A.C.M.A.No.4587 of 2008

JUDGMENT:

The injured claimant of O.P.No.206 of 2007 on the file of Motor Accidents Claims Tribunal-cum-II Additional Chief Judge, City Civil Court, Hyderabad, maintained the appeal against the owner and insurer of the lorry bearing No.AK-39-A-9011 for Rs.1,50,000/- with interest at 18% p.a. for the injuries sustained in the motor accident dated 18.06.2006 saying while he was proceeding from Hyderabad to Bidar in the car bearing No.AP-38-M-268, opposite coming lorry of the 1st respondent insured with 2nd respondent dashed the car, as a result he sustained injuries and entitled to claim. The claim against the owner of the lorry was dismissed for default before the Tribunal, thereby the claim which cannot be continued against the insurer was consequently dismissed on 14.07.2008. It is impugning the same, the appeal is filed by the claimant.

Heard learned counsel for the appellant and learned counsel for the 2nd respondent, the 1st respondent against whom the claim dismissed before the lower Court. Notice sent returned as left and no further steps have been taken even fresh notice ordered though not otherwise required. As there is a default on part of the claimant in not taking to restore the claim against respondent No.1 before the Tribunal, the Tribunal no doubt was right in dismissing the same, however but for to accept the contention of the appellant, the Tribunal ought to have given one more opportunity to take steps to decide the claim on merits from adopting the policy

covers the risk to determine any entitlement of compensation or not, on merits.

Having regard to the above, the default dismissal order is set aside by allowing the appeal by remanding the matter directing the lower Court to restore the claim against respondent No.1 also by virtue of this order and permit fresh notice to be taken by the claimant and proceed in accordance with law.

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

Date: 08.09.2016
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JUSTICE Dr. B.SIVA SANKARA RAO

