

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO
MACMA MP No.1566 of 2011 in MACMA No.258 of
2016 & MACMA No.258 of 2016

COMMON ORDER :

Heard both sides. Delay condoned. The appeal is taken up for hearing. The facts not in dispute are that the claim petition in O.P. No.650 of 2002 filed by the four claimants and after award of the Tribunal when 2nd respondent-insured among the two respondents including owner of the Tata Passenger Sumo bearing No. AP 28 K 5121, maintained appeal in MACMA No.313 of 2005 pending appeal deposited certain amount of which this Court (another bench) earlier permitted withdrawal some of the amount and ultimately the appeal was allowed to the extent of remanding the matter to the Tribunal restoring the claim supra for fresh disposal and from the fresh disposal there was a finding which is now impugned in the un-numbered appeal, of insurer cannot be made liable as the policy is only an act policy.

2) There is nothing to show from the policy of other than act policy of third party liability under Section 147 of the Motor Vehicles Act there is any contractual liability undertaken by payment of any additional premium and not even a standard package policy to cover I.R.D.A guidelines with effect from 16.11.2009 to undertake risk by the insurer.

3) Having regard to the above, there is nothing to interfere with the award of the Tribunal exonerating the insurer so also on the quantum against the owner.

4) Accordingly the appeal is dismissed. However, it is clarified that whatever deposited by the insurer in favour of the claimants and permitted by this Court earlier or by the Tribunal, the insurer is entitled to recover only from the owner. Needless to say any further amount deposited to withdraw by filing cheque petition by the insurer. There shall be no order as to costs.

5) Miscellaneous petitions, if any pending in this appeal, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

08.02.2016
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