

THE HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

MACMA MP No.4074 of 2010

IN/AND

MACMA No.480 OF 2016

COMMON JUDGMENT:

Heard.

The delay is condoned and the appeal is taken up for hearing.

Heard the learned counsel for the appellant – insurer. There is proof of substitute service for respondents 4 and 5, held sufficient service. Respondents 6 and 7 are the parents and respondents 1 to 3 are wife and minor daughters of the deceased – Trinadh.

The claim petition filed under Sections 163-A and 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') for Rs.2,65,000/-, the Tribunal arrived compensation at Rs.2,65,005/- with interest @ 7.5 per annum against the respondents 2 and 3, who are owner and insurer of the auto bearing No.AP 31 V 3685 with the observation that the FIR speaks the rash and negligent driving of the auto, there is no fault of the first respondent to the claim petition, and the charge sheet filed against the owner of the auto as concluded, including from the evidence of P.W.1, and exonerated the owner of the car and it is impugning the exoneration of the owner of the car.

In fact, the claim petition filed under Sections 166 and 163-A of the Act. The Tribunal is confined to entertain the claim petition under Section 163-A of the Act.

Once such is the case, there is nothing to interfere with the finding of the Tribunal, need less to say, if at all any grievance thereof, the appellant/2nd respondent shall proceed against the owner and insurer of the car bearing No.AP 31 W 8902 for any composite/ contributory negligence in the same claim petition and not by separate proceedings by following guidelines **Oriental Insurance Co. Ltd vs Shri Nanjappan**

And Others ^[1] and as laid down by the recent three Judges expression of the Apex Court in **Khenyei v. New India Assurance Company Limited** ^[2].

Accordingly, and in the result, the MACMA MP No.4074 of 2010 is allowed and the appeal is disposed of with no costs.

Consequently, the miscellaneous petitions, if any, pending in this petition shall stand closed.

Dr.B.SIVA SANKARA RAO, J

Dt.27.01.2016

BV

^[1] I(2004)ACC 524 (SC),

^[2] 2015(9) SCC 273