

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

M.A.C.M.A.NO.2455 OF 2005

JUDGMENT:

This appeal is preferred by the appellant-Insurance Company against the award, dated 07-08-2003 in M.V.O.P.No.869 of 1999 on the file of the IV Additional District Judge-cum-Chairman, Motor Accident Claims Tribunal, Guntur.

2. It is submitted by the learned counsel appearing for the appellant that there was a connected appeal in MACMA No.1540 of 2011 arising out of O.P.No.988 of 1999, which arose from the same accident. She further submits that the above appeal was allowed basing on the decision of the Supreme Court reported in **NEW INDIA ASSURANCE CO., LTD V ASHA RANI**^[1] as the deceased was travelling as a gratuitous passenger in a goods vehicle and the Insurance Company is not liable for payment of compensation. This Court while disposing of the said appeal on 27-07-2011, held as follows:

“In view of the fact that the lorry itself is said to have been carrying the marriage party, which is a goods vehicle. The employment of a lady as a cleaner for the lorry is too remote to be accepted with any reason. Therefore, I have no hesitation in holding that the claim of the petitioners that the deceased was employed as a labourer and cleaner cannot be accepted and she was travelling in the lorry along with the marriage party and is a gratuitous passenger and hence the Insurance Company cannot be held liable to pay the compensation. However, in pursuance of the directions of this Court, the appellant has deposited half of the amount, which was permitted to be withdrawn by the petitioners. Therefore, in view of the above circumstances, the further liability is not enforceable against the appellant and the petitioners are directed to proceed against the owner of the vehicle for the balance of the compensation amount and the appellant is at liberty to proceed against the owner of the vehicle for the amount already paid.”

The above ratio laid down by the Hon'ble Supreme Court was reiterated in another decision reported in **M.V.JAYADEVAPPA AND OTHER V ORIENTAL FIRE AND GENERAL INSURANCE CO. LTD. AND OTHERS**^[2] and also in another decision reported in **NATIONAL INSURANCE COMPANY V KAUSHALYA DEVI**^[3]

3. In view of the same, this appeal is also allowed in terms of the judgment, dated 27-07-2011 in MACMA No.1540 of 2011. No order as to costs. Miscellaneous petitions, if any pending in this appeal shall stand closed.

A.RAMALINGESWARA RAO, J

DATED: 22-01-2016

Hsd

[\[1\]](#) (2003) 2 SCC 223

[\[2\]](#) 2005 (2) T.A.C. 5 (S.C.)

[\[3\]](#) AIR 2008 SC 2252 = (2008) 8 SCC 246