

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

M.A.C.M.A.No.4711 of 2008

JUDGMENT:

The 2nd respondent insurer among the two respondents including the owner of the lorry bearing No.KA-02-AB-0007, impugning the award of the Tribunal dated 05.06.2008 in M.V.O.P.No.449 of 2006, granting compensation of Rs.1,16,040/- with interest @ 7.5% per annum with joint liability under the claim maintained by the injured claimant under Section 166 of Motor Vehicles Act for Rs.3,00,000/- for the injuries sustained in the road accident dated 07/08.06.2005 at about 12.30 AM while travelling in the tomato load of the lorry as one of the coolies for loading and unloading for the vehicle turned turtle, as a result of which he sustained injuries, preferred the appeal with the contention that the Tribunal gravely erred in fixing joint liability on the insurer, hence to set aside the award of the Tribunal.

Whereas it is the contention of the learned counsel for the claimant that award of the Tribunal holds good for this Court while sitting in appeal, there is nothing to interfere.

The policy covers the risk is not in dispute. Instead of sitting at cabin, if he sat on the load of the lorry along with other coolies, it is one of the violation of the terms of the permit at best that permit is not even exhibited from the evidence of respondents to appreciate and there is nothing in this regard from the oral evidence of employee of insurer. It is considered by the Tribunal from the evidence, while coming to conclusion of fixing joint

liability, for this Court there is nothing to interfere including on the quantum.

Accordingly and in the result, the appeal is dismissed.

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

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 09.09.2016
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