

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A.M.P.No.4088 of 2011 IN/AND

M.A.C.M.A.No.450 of 2016 &

M.A.C.M.A.M.P.No.4092 of 2011 IN/AND

M.A.C.M.A.No.451 of 2016

COMMON ORDER:

MACMA MP Nos.4088 and 4092 of 2011 are filed to condone the delay of 54 and 74 days, respectively, in filing the appeals against the orders and decrees dated 14.02.2011 in M.V.O.P.Nos.63 and 64 of 2005, respectively, on the file of the District Judge-cum-Motor Accidents Claims Tribunal, Chittoor.

2. Heard the learned counsel for the appellant/insurer. The 1st respondent/claimant even served failed to attend in both the appeals and 2nd respondent/owner of the vehicle remained exparte before the tribunal and even impleaded in the appeal and dismissed for default, no way fatal to the maintainability of appeals vide **Meka Chakra Rao vs Yelubandi Babu Rao @ Reddemma^[1]**. Perused the material on record.

3. The delay in both the petitions is condoned, as the reason assigned in both the appeals is administrative delay in giving opinion and processing of papers from sanction.

4. A perusal of the award of the tribunal shows it is due to wrong parking on the middle of the road the crime vehicle of the 1st respondent of the claim petition insured with the 2nd respondent/appellant herein, bearing tipper No.TN 23D 8572, the

accident occurred though the finder of the last opportunity with rider of the bike with two pillion riders who dashed stationed tipper in that sun-set time in darkness. No doubt, the finder of last opportunity is with the rider of the bike from the head light of the bike do not vigilant while driving so that he could avert. However, main negligence is in stationing the tipper on the middle of the road without blinking lights. There from even taken 20% contribution on the part of the rider of the bike, 80% liability is on the tipper stationed on the middle of the road which resulted the accident as per the finding of the tribunal also for the owner and insurer to be made liable; however, so far as the quantum awarded is concerned for that 80% liability practically, there is nothing to interfere, much less to reduce.

5. Hence, both the appeals are dismissed. There is no order as to costs.

6. Miscellaneous petitions, pending if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date:29-01-2016

pab

[\[1\]](#) (2001 (1) ALT 495)