

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A. No.724 OF 2016

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JUDGMENT:

The 2nd respondent—insurer among 3 respondents including owner of the lorry, APSRTC in the claim petition filed by the injured in M.V.O.P. No.370 of 2009 on the file of the VI Additional District Judge, Anantapur at Gooty (for short ‘the Tribunal’) for the claim of Rs.4 lakhs under Section 166 of M.V Act and the Tribunal allowed the claim on 01.12.2010 as prayed for fixing joint liability against respondents 1 and 2 while dismissing against respondent No.3. Aggrieved by the same, the Insurance Company preferred the appeal against the claimant as 1st respondent, owner of the vehicle as 2nd respondent, APSRTC as respondent No.3, to fix liability on APSRTC.

2) The 2nd respondent herein is the owner of the vehicle remained *ex parte* before the Tribunal and even impleaded in this appeal dismissed for default, which is no way fatal to the maintainability of the appeal vide ***Meka Chakradhara Rao vs Yelubandi Babu Rao***^[1] and the same is recorded.

3) Heard learned counsel for appellant/ insurer as well as the 1st respondent/ claimant respectively. Perused the material on record.

4) A perusal of the award would show that the lorry

coming behind dashed the bus that was lying stopped by seeing auto in front of it. The injured claimant herein is the passenger of the auto. When the injured while getting down tried to rescue the pillion rider of a two wheeler, which was proceeding forward, was fallen down. The manner of accident, as rightly contended by the Tribunal clearly establishes that the lorry dashed the bus and could not be pushed out to hit the auto resulting injuries to the claimant. Thereby, there is nothing to interfere with the Tribunal's finding.

5) Accordingly and in the result, the appeal is dismissed. No order as to costs.

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

Dr. B. SIVA SANKARA RAO, J

08.02.2016

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