

SMT JUSTICE T. RAJANI

MACMA.No.1644 of 2008

JUDGMENT:

This appeal is preferred by the appellant, who is the fourth respondent before the Court below, assailing the judgment of the VII Additional District Judge, Madanapalle in OP.No.130 of 2002 dated 05.04.2005. The grievance of the appellant is that in the connected OP.No.10 of 2001 and batch dated 23.03.2004 the tribunal apportioned the negligence in the ratio of 70:30 on respondents 2 and 3 (owner and insurer of the bus bearing No.TN 23 D 7617) and the claimant herein wherein in this case, 100% negligence is concluded against the driver of the Jeep and respondent No.4 is mulcted with total liability.

2. Heard both sides.

3. Counsel for the appellant contends that the Court below took a view, which is different from the view taken by the tribunal in two OP's, which arose out of the same accident. In those OP's negligence was held in the ratio of 70:30 in respect of two vehicles whereas in this case 100% liability is fixed on the appellant. Counsel for the appellant also brings to the notice of this Court that against the judgments in the connected OP's, the United India Insurance Company went in appeal and the judgments of the Court below were confirmed by dismissing the appeals.

4. Counsel for the respondent appearing for the United India Insurance Company contends that that case has to be treated as an independent case, as the tribunal elaborately discussed the aspect of

negligence and arrived at the conclusion that the accident occurred due to the negligence of the driver of the jeep alone.

5. The fact remains that the United India Insurance Company allowed the common judgment in CMA.Nos.2921, 3218, 4094, 4100 and 4286 of 2004 and MACMA.Nos.1264 and 2623 of 2005 dated 01.05.2009 to become final. By virtue of which this Court affirmed the order of the Court below therein which held the negligence in the ratio of 70:30. The ruling that uniformity should be maintained in the judgment rendered in respect of similar claims is a cardinal rule of justice. Hence, when an issue in connected matters has become final and when the reasoning given in deciding the issue as such does not appear to be erroneous, there cannot be any reason for this Court to give a different finding. Hence, the judgment of the Court below is set aside and the liability of respondents 1 and 2 and respondents 3 and 4 is apportioned in the ratio 70:30.

The civil miscellaneous appeal is allowed. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

October 30, 2017
DSK

T. RAJANI, J