

SMT JUSTICE T. RAJANI

MACMA.Nos.413 of 2008 and 2014 of 2007

COMMON JUDGMENT:

These appeals arise out of the common judgment dated 11.07.2007 in MVOP.Nos.71 and 36 of 2005 passed by the V Additional District Judge, Kurnool. The short grievance on which the appellants are before this Court is that the Court below dismissed the OP's against the insurance company on the ground that the driver of the crime vehicle was not having valid driving license.

2. Heard both the counsel.

3. The counsel for the appellants, except stating that an order of pay and recovery has to be made, does not derive any support to his argument from any authority. Counsel for the respondent, on the other hand, submits that the driver is no other than the owner of the vehicle and hence, the order of pay and recover cannot be made as it is an utter violation of the terms of the policy.

4. Had the driver not been the owner of the vehicle, perhaps, the Court below would have had an opportunity to assume that the owner did not instruct the driver as regards the driving license. But, in this case, since the driver is no other than the owner and since he drove the vehicle knowing fully well that he is not having driving license, the insurance company cannot be mulcted with the liability. Hence, the award of the Court below needs no interference.

The civil miscellaneous appeals are dismissed. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

October 27, 2017
DSK

T. RAJANI, J

