

SMT. JUSTICE T.RAJANI

MACMA. No.417 of 2008

JUDGMENT:

This appeal is preferred by the appellant, New India Assurance Company Limited, who is the 2nd respondent before the Court below, questioning the judgment of the III Additional Chief Judge, City Civil Court, Hyderabad, passed in O.P. No.3133 of 2004 dated 14.12.2006 with regard to the liability fixed on the appellant in spite of the appellant proving that the driver of the crime vehicle did not hold valid driving license.

Heard the learned counsel for the appellant. The learned counsel for the respondent remained absent.

The short question that has to be decided in this appeal is *whether the appellant succeeded in proving that the driver of the crime vehicle was holding fake driving license.*

The learned counsel for the appellant drew the attention of this Court to Ex.B-3, copy of the driving license of the driver of the crime vehicle, and Ex.B-2, endorsement of RTA made on a letter addressed on behalf of the appellant.

The case of the appellant is that the driver of the crime vehicle did not have valid driving license and the driving license produced by him is a fake driving license, which the appellant succeeded in proving by way of the endorsement made by the Additional Licencing Authority RTA, Hyderabad (East Zone) on Ex.B-2 letter. Ex.B-2 letter was addressed to the RTA, Ranga Reddy District by the Advocate of the appellant's Company requesting the RTA to verify whether the driving license of one Ananthula Saidulu S/o. Narsaiah with driving license No.493/AS/2001 was valid or not. The endorsement says that as per the office record of

the RTA driving license No.1049/HE/1999 was issued in the name of Mohammed Maqsood, S/o.Gulam Dastagir on 01.02.1999. The lower Court, by considering the difference in the driving license numbers, i.e. the one which was referred in the letter addressed on behalf of the appellant's company and the one mentioned in the endorsement made by the Additional Licensing Authority, held that the appellant/respondent No.2 failed to prove that the driver of the crime vehicle was not holding genuine driving license.

The copy of the driving license of the driver of the crime vehicle is marked as Ex.B-3. Counsel for the appellant contends that the reference made in the endorsement of the RTA is with regard to the No.1049/99, which was mentioned in Ex.B-3 and that hence the endorsement can be considered as relating to the driving license No.493/AS/2001. But a comparison of the Ex.B-3 and B-2 shows that in Ex.B-2 the driving license was referred as 1049/HE/1999 but the words "HE" found in the endorsement Ex.B-2 cannot be related to Ex.B-3. As to what 1049/99 in Ex.B-3 stands for is not explained by any witness examined on behalf of the appellant and as to how the words "HE" got to be mentioned in the endorsement in the Ex.B-2 is also not explained. Hence, unless the said discrepancy is explained properly it cannot be said that instead of mentioning the number mentioned in the appropriate column of the driving license Ex.B-3, the RTA mentioned the number, which finds place in the Ex.B-3 as 1049/99 that too in a separate column. Whether 1049/HE/1999 pertains to a separate driving license or whether the said number is taken from Ex.B-3, copy of the driving license filed by the claimants, are all questions, which can be answered by some person concerned with the issuance of the driving licenses. If there had been no words as "HE" in the endorsement on Ex.B-2, perhaps it could have been easy to presume that the number noted in a column in Ex.B-2 was taken by the person who made the endorsement by mistake. But when letters

indicating a series are taken from nowhere, it has to be explained satisfactorily. When there is a discrepancy left unanswered by the appellant/respondent No.2, the benefit of such lapse goes to the claimants, the claim being under a beneficial legislation.

With the above findings, the appeal is liable to be dismissed and is accordingly, dismissed. There shall be no order as to costs.

JUSTICE T.RAJANI

Date: 18 August, 2017.
LSK

