

SMT JUSTICE T. RAJANI

MACMA No.1011 of 2012

JUDGMENT:

This appeal is preferred by the appellant, who is the claimant before the Court below, assailing the judgment of the II Additional Metropolitan Sessions Judge cum XVI Additional Chief Judge, Hyderabad in OP.No.2994 of 2004 on the grounds that the Court below erroneously fixed the liability on the appellant and respondents 5 and 6 herein, while the liability has to be fixed on respondents 5 and 6 alone.

2. Heard the counsel for the parties.

3. The counsel for the appellant, being aware of the decision of the Supreme Court in *MANAGING DIRECTOR, KARNATAKA STTAE ROAD TRANSPORT CORPORATION v. NEW INDIA ASSURANCE CO. LTD.*¹, does not raise any point or argument against it. The decision is to the effect that both the RTC and the insurance company will be liable along with the owner of the vehicle and liberty was, however, given to RTC to proceed against the insurer for recovery of the amount, which is paid by it.

4. However, in this case, it is submitted that the appellant had satisfied half of the award and that no amount is paid by RTC. The claimants are, however, at liberty to realise the amount either from APSRTC or from the insurer and following the decision aforesaid, APSRTC is given liberty to recover the amount, if already paid by

¹ (2016) 2 SCC 382

them, from the owner as stipulated in the agreement or from the insurer.

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

December 8, 2017
DSK

T. RAJANI, J

