

SMT JUSTICE T. RAJANI

MACMA No.765 of 2006

JUDGMENT:

This appeal is preferred by the appellant – insurance company, who is the 2nd respondent before the court below, assailing the judgment, dated 30.12.2005, of the II Additional District Judge, Karimnagar District, passed in OP.No.107 of 2004, on the grounds that the court below failed to appreciate the fact that the driver of the crime vehicle was not having valid driving licence; the lower Court ought to have seen that it is not possible to prove that a particular person had no driving licence and what can be proved by a positive evidence is that a person had licence, by producing the same or relevant records and it is for the claimants to prove that the 3rd respondent-driver had a valid driving licence.

2. Heard both sides.

3. The counsel for the appellant contends that in the absence of driving licence, it is for the claimants to prove that the driver of the crime vehicle had valid driving licence. The lower Court, at paragraph 12, of its judgment took up the discussion on the said issue and it observed that the 2nd respondent did not examine the investigating officer, who concluded that the 1st respondent had no driving licence and that the discussion also shows that the driver was charge sheeted for not having driving licence.

4. But merely because a charge sheet is laid for the offence under Section 181 of the Motor Vehicles Act, 1988, it cannot be conclusively said that the driver did not have valid driving licence and it is possible that the prosecution might have been for not producing the driving licence at the relevant point of time. Hence, the contents of the charge sheet cannot be taken as a conclusive proof of the fact that the driver did not have valid driving licence. The respondents ought to have taken steps to examine the investigating officer, who could have explained the contents of the charge sheet and whether driving licence was found to be absent even after due investigation. The claimants, who are already victims of a motor accident, cannot be expected to go to the extent of proving the driving licence of the driver of the crime vehicle. The burden remains on the appellant, who takes a plea that the driver did not valid driving licence. It also could have examined anyone from the RTA office to say that there is no driving licence existing in the name of the driver of the vehicle. Hence, in view of the said lapses on the part of the appellant, there is no scope left for this court to interfere with the judgment of the court below.

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

T. RAJANI, J

November 13, 2017
LMV