

THE HON'BLE SMT JUSTICE T. RAJANI

MACMA No.817 of 2008

JUDGMENT:

This appeal is preferred by the insurance company assailing the award of the I Additional District Judge, Nizamabad in OP.No.811 of 2002 dated 09.03.2006 on the ground that the tribunal below did not permit the appellant to recover the amount from the insured after paying the amount in spite of there being a violation of the condition of the policy.

2. At the hearing, counsel for the appellant submits that the driver of the crime vehicle was proved to holding only a non-transport licence whereas he was driving an auto, which is a transport vehicle. Counsel further submits that the tribunal relied on the decision of the Supreme Court in *NATIONAL INSURANCE CO. LTD. v. SWARAN SINGH* [2004 ACJ 1]. Learned counsel relied on the decision of the Supreme Court in *NATIONAL INSURANCE CO. LTD. v. GANGADHAR*¹.

3. In the decision relied upon by the appellant, the driver was holding a license to drive a light motor vehicle with endorsement to drive transport vehicle but such endorsement expired before the date of accident but the licence to drive a light motor vehicle continued. It was held that the driver did not have a valid licence to drive a transport vehicle. In the present case, the driver was holding only non-transport driving licence but did not hold licence for driving a light

¹ 2016 ACJ 1808

motor vehicle in order to be covered by the decision of the Supreme Court in *S. IYYAPAN v. UNITED INDIA INSURANCE CO. LTD.*². Hence, an order to pay and recover would meet the ends of justice.

The civil miscellaneous appeal, to the extent indicated above, is allowed in part. As a sequel, the miscellaneous applications, if any, shall stand disposed of as infructuous. There shall be no order as to costs.

March 3, 2017
DSK

T. RAJANI, J



² (2013) 7 SCC 62