

SMT JUSTICE T. RAJANI

MACMA.No.470 of 2006

JUDGMENT:

This appeal is preferred by the appellant, who is the claimant before the Court below, assailing the judgment of the District Judge, Srikakulam in OP.No.199 of 1995 dated 24.10.2005 by virtue of which the Court below dismissed the claim petition.

2. The grounds on which this appeal is preferred are that the Court below ought to have appreciated the evidence of P.W.2, who is an eye-witness, who categorically spoke about the negligence of the driver of the tractor and that as per Section 163-A of the Motor Vehicles Act, the appellant need not prove negligence. The Court below erred in holding that the deceased died on account of his own negligence.

3. At the hearing, counsel for the appellant is present, while none appeared for the respondents.

4. A perusal of the evidence of P.W.2 coupled with the report, which was given by none other than himself, would render his testimony untrustworthy. He gave two different versions viz. one before the Court and the other in the complaint lodged by him before the police. He, however, states before the court, that the accident occurred due to the rash and negligent driving of the driver of the crime vehicle but the report given by him projects another picture, which is totally different from what he endeavours to project before the Court. According to what he stated in the report given by him,

the deceased himself was responsible for his death; as he consumed toddy heavily in spite of the driver warning him not to do so; he boarded the tractor and when the tractor reached Yerakalaguddi filed, the deceased out of intoxication lost balance and fell down head over heels and dashed against the tractor. The report given by him does not anywhere bring the tractor into picture and there is absolutely no scope left for anyone to infer that the driver of the tractor had anything to do with the deceased falling down and meeting his end. The charge sheet also, as rightly observed by the Court below, reflects the same version.

5. Hence, in the light of the above said two documents, the evidence of P.W.2 given before the Court has to be categorized as absolute falsity. The accidental death of the deceased is only due to the above stated circumstances and not because of the involvement of the tractor. Hence, in view of the above, the judgment of the Court below needs no interference and the same is confirmed.

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

July 14, 2017
DSK

T. RAJANI, J