

THE HON'BLE SMT JUSTICE T.RAJANI

M.A.C.M.A.No.401 of 2008

JUDGMENT:

This appeal is preferred by the appellant, who is 2nd respondent-insurance company in the Court below, assailing the order of the V Additional District Judge (Fast Track Court) Anantapur, in O.P.No.270 of 2005, dated 17.03.2007, on the ground that the lower Court did not appreciate the Judgments relied upon by it and failed to order for recovery of the compensation amount from the owner after the appellant pays the same.

2. Heard learned counsel for the appellant and learned counsel for respondents 1 to 4.

3. Though there are several grounds pleaded in the grounds of appeal, at the hearing, counsel for the appellant presses only upon one ground i.e., the failure of the lower Court to order for recovery of Award amount after the same is paid by the appellant. The Judgment of the lower Court shows that it considered the Judgment of the Apex Court in **National Insurance Company Limited v. Kusumrai and others**¹. It also noted that the Apex Court therein held that a direction was given to the insurance Company to pay and recover the amount from the owner of the vehicle. Hence, it can be straightaway concluded that the Judgment of the lower Court to that extent is erroneous. Having observed that the Apex Court made a direction to recover the amount from the owner, failure on its part not to make such direction in the Award made by it cannot be sustained.

¹ 2006 ACJ 1336

4. Hence, the appeal is partly allowed by permitting the appellant to recover the Award amount from the owner of the vehicle i.e., respondent No.5 after satisfying the award.

Miscellaneous petitions, if any, pending in this appeal shall stand closed. There shall be no order as to costs.

JUSTICE T.RAJANI

AUGUST 18, 2017
YVL



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Date:18.08.2017

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