

SMT JUSTICE T. RAJANI

MACMA.No.1107 of 2008

JUDGMENT:

This appeal is preferred by the appellant-insurance company, who is respondent No.2 before the Court below, assailing the judgment of the Additional District Judge, Anantapur in OP.No.18 of 1993 dated 02.04.1998, on the ground that the Court below did not consider that there was no driving licence subsisting as on the date of accident, since the driving license lapsed by the date of accident.

2. Heard both the counsel.

3. At the hearing, the counsel for the appellant contends that the Supreme Court in NATIONAL INSURANCE CO. LTD. v. VIDHAYDHAR MAHARIWALA¹ held that when there is no driving licence subsisting as on the date of the accident, no liability can be fixed on the insurer. As against the said judgment, counsel for the respondent-claimant, relied on a decision of the Supreme Court in KEMPAIAH v. S.S. MURTHY² wherein the order of pay and recover was made, in spite of the fact that driver of the offending vehicle was not holding a valid driving licence to drive the transport vehicle on the date of the accident.

4. It can be observed that the present case distinguishes itself from a case where the driver does not hold a driving licence at all. Since the driving licence was held by the driver at some point of time, it has to be inferred that he was conversant with the driving of the

¹ (2008) 12 SCC 701

² 2017 (4) ALD 93 (SC)

vehicle like the one, which is involved in the accident and unless he is disqualified from driving, it cannot be said that there is any nexus between the driver not holding valid driving licence and the accident. However, going by the principle laid down in the decision in KEMPAIAH's case (2 supra), the judgment of the Court below can be altered to the extent of ordering the appellant to pay the compensation amount and recovering the same from the insured without any separate suit.

With the above observation, 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.

September 4, 2017
DSK



T. RAJANI, J