

THE HON'BLE SMT JUSTICE T.RAJANI

M.A.C.M.A. No.384 OF 2008

JUDGMENT:

This appeal is preferred by the appellant, who is the injured/respondent No.2 in the lower Court, assailing the Award, dated 04.01.2007, passed in O.P.No.1844 of 2004 by the Court of the X Additional Chief Judge (Fast Track Court), City Civil Court, Hyderabad, mainly on the ground that the evidence was not properly appreciated by the lower Court.

The learned counsel for the appellant contends that on the own showing of P.W.2, the deceased was riding the scooter and admittedly four persons were travelling on the scooter and contributory negligence can be assumed from the said fact. But, this Court is not inclined to deviate from the order of the lower Court which is in proper perspective. Simply because four persons were travelling on the scooter, it cannot be assumed that there was negligence on the part of the driver of the scooter, if the rider was taking necessary precautions in riding the scooter, which was carrying four persons. It may be violation of road rules but cannot become basis to assume negligent driving, unless it is proved to be so. The charge sheet is filed against the driver of the crime vehicle, which would support the above reasoning. Hence, there is absolutely no need to interfere with the order of the lower Court.

The Appeal is accordingly dismissed. Consequently, miscellaneous petitions pending if any, in the appeal, shall stand closed.

JUSTICE T.RAJANI

23.02.2017
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