SMT.JUSTICE T.RAJANI

MACMA. Nos.484 and 486 of 2008

COMMON JUDGMENT:

These two appeals arise out of same accident and therefore, they are being disposed of by this common judgment.

These appeals are preferred by the United India Insurance Company Limited assailing the order dated 18.10.2007 passed in O.P.Nos.1511 and 1509 of 2004 by the III Additional District Judge (FTC.II) Khammam on the ground that, the driver of the crime vehicle was not having valid driving license as on the date of accident; the Court below erred in coming to a conclusion that holding mere licence for driving light motor vehicle is sufficient and failed to see that to drive tractor and trailer it requires a specific licence.

At the hearing, the learned counsel for the appellant seeks this court to modify the order by permitting the appellant to pay and recover the award amount. He also submitted that the entire amount has already been deposited as per the order dated 29.02.2008 of this Court.

The learned counsel for the respondent submitted that the Court below has dealt with the above aspect very clearly and arrived at the conclusion which it has arrived at. The admitted fact is that the driver was holding the driving licence for light motor vehicle non transport. The light motor vehicle is defined in Section 2 clause 21 as *meaning a transport vehicle, the unladen weight of which, does not exceed 7,500 kilograms.* By virtue of that the transport vehicle, gets included in the definition of light motor vehicle. The observation of the lower Court, with regard to the weight of the vehicle, is that no evidence is adduced in that regard. Hence on the failure of the appellant to prove the weight of the vehicle, the vehicle has to be construed as a light motor vehicle, below the weight of 7,500 kilograms. In such circumstances, the driver of the crime vehicle stands holding valid driving licence as on the date of the accident.

In the case of S.IYYAPAN Vs. UNITED INDIA INSURANCE COMPANY LIMITED AND ANOTHER[1] the Apex Court had categorically held *"The insurer cannot disown its liability on the ground that although the driver was holding a licence to drive a light motor vehicle but before driving light motor vehicle used as commercial vehicle, no endorsement to drive commercial vehicle was obtained in the driving licence. In any case, it is the statutory right of a third party to recover the amount of compensation so awarded from the insurer. It is for the insurer to proceed against the insured for recovery of amount in the event there has been violation of any condition of the insurance policy."*

In view of the above facts and circumstances of the case, this appeal is liable to be dismissed and is accordingly, dismissed. As a sequel, miscellaneous petitions, if any stand closed. There shall be no order as to costs.

JUSTICE T.RAJANI

Date: 17.03.2017
LSK

[1] (2013) 7 Supreme Court Cases 62

HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH
सत्यमेव जयते