

SMT JUSTICE T. RAJANI

MACMA.No.1080 of 2008

JUDGMENT:

This appeal is preferred by the appellant, who is respondent No.3 in the Court below, assailing the judgment of the I Additional District Judge, West Godavari at Eluru, in O.P.No.251 of 1995, dated 06.01.1999, on the ground that the Court below ought to have dismissed the claim petition as there are violations of the terms of the policy and it ought to have seen that the person, who drove the vehicle, did not have valid driving licence.

2. Heard learned counsel for the appellant – Insurance Company. No representation for the respondents.

3. At the hearing, learned counsel for the appellant, apart from the grounds taken in the grounds of appeal, submits that the claim also has to be dismissed for non-joinder of the parties of the car, which is involved in the accident. He also submits that the driver of the lorry was not holding valid driving licence and hence, the appellant cannot be mulcted with any liability.

4. A perusal of the record shows that absolutely there is no evidence adduced by the appellant in order to prove the absence of driving licence to the driver of the lorry. Hence, the contention of the learned counsel in that regard cannot be sustained. The contention with regard to the non-joinder of the parties of the car also is not found merited, as the Court below categorically came to the conclusion that the accident

occurred due to the negligence of the driver of the lorry. Even otherwise, when the claimant is a third party and is not alleged to have contributed to the accident, he has an option to make a claim against any of the two joint tortfeasors.

In view of the above, the appeal fails and is accordingly dismissed but without costs. Pending miscellaneous applications, if any, shall also stand dismissed.

Date: 23.10.2017
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T. RAJANI, J

