

SMT JUSTICE T. RAJANI

MACMA No.1203 of 2011

JUDGMENT:

This appeal is preferred by the appellant-insurance company, who is the second respondent before the Court below, assailing the judgment of the District Judge, Chittoor in MVOP.No.425 of 2004 dated 01.04.2010 on the grounds that the Court below did not appreciate the aspect of involvement of this vehicle in the accident; the Court below ought to have seen that P.Ws.2 and 3, who are interested witnesses, gave false evidence and it failed to see that the deceased died due to the injuries sustained, when he fell down from the two wheeler and that the same is evidenced by the wound certificate.

2. Heard both sides.

3. Counsel for the appellant draws the attention of this Court to the wound certificate, Ex.B2, wherein it was recorded by the doctor that the injuries were sustained by the deceased when he fell down from the two wheeler.

4. The doctor was also examined as R.W.2 and he states that the said fact was recoded in the wound certificate based on the statement given by one Hari, who accompanied the deceased on the two wheeler. But the Court below appreciated that the said fact in the right perspective. The endorsement in the wound certificate done by a third party cannot be projected against the claim of the claimant, who has a different version which was brought forth before the Court below, through P.Ws.2 and 3, who are not the witnesses, who are discredited. Hence, absolutely, there is no reason to disbelieve their

evidence and the fact that the crime was registered against the driver of the crime vehicle also supports the evidence of P.Ws.2 and 3. Hence, merely because there is another possible assumption, there is no need to differ with the judgment of the Court below.

In the result, the civil miscellaneous appeal is dismissed. As a sequel, the miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

December 11, 2017
DSK

T. RAJANI, J

