

HON'BLE SMT JUSTICE T.RAJANI

MACMA No.4840 of 2008

JUDGMENT:

This appeal is preferred by the appellant, who is respondent No.2 before the Court below, assailing the judgment, dated 03.10.2005, in M.V.O.P.No.888 of 2003 on the file of the Motor Accident Claims Tribunal-cum-II Additional District Judge, Warangal, on the ground that the Court below did not consider the contributory negligence of the deceased.

Heard learned counsel appearing for both the parties.

Learned counsel for the appellant contends that the Court below ought to have visualised the scene of accident from the facts narrated by the witnesses and come to a conclusion that the accident resulted not only due to the negligence of the driver of the RTC bus but also due to the negligence of the deceased. He wants the Court to appreciate the fact that the deceased was admittedly handing over water bottles from the window of the RTC bus, which implies that he was on the road. Even if the said contention is accepted and even if it is agreed that the deceased was standing on the road, it is for the driver of the RTC bus to have a look out of all the eventualities that could be possible before starting the bus, which obviously, in this case, he failed to do.

The order of the Court below in concluding the negligence against the driver of the RTC bus does not seem to be fallacious as it took into consideration the charge sheet, which is filed after completion of the investigation, and also the fact that the driver of the RTC bus surrendered himself during the investigation. There is absolutely no basis laid by the appellant to take a different view from the view taken by the Court below. Hence, the appeal fails and the same is, accordingly, dismissed.

As a sequel, interim stay granted on 17.7.2006 in MACMAMP.No.3240 of 2006 is vacated and the Miscellaneous Petitions, if any, shall stand dismissed as infructuous.

20th October, 2017
dr

JUSTICE T.RAJANI

