

SMT JUSTICE T. RAJANI

MACMA.No.3381 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 III Additional District Judge, Tirupati in MVOP.No.220 of 2008 dated 06.04.2010 on the grounds that the Court below did not appreciate the evidence of P.W.4 in right perspective and that no deduction was made towards personal expenditure of the claimant.

2. Heard both sides.

3. A perusal of the judgment of the Court below shows that it relied on the contents of the charge sheet, which is Ex.A2. P.W.4, nevertheless, stated that there was negligence on the part of the driver of both the vehicles. A perusal of the charge sheet shows that P.W.4 was cited as an eye witness. Hence, it has to be presumed that by considering the statement of P.W.4 therein, the charge sheet was laid against the driver of the first respondent and in such circumstances, the evidence given before the Court has to be considered as an improvement. Moreover, the counsel for the fourth respondent draws the attention of this Court to the cross-examination of P.W.1 wherein he admitted that the driver of the first respondent is related to him and that it is only at the behest of the victim, that P.W.4 had deposed like that. The said assumption is also possible. Hence, in the light of the fact that charge sheet is laid against the driver of the first respondent and that P.W.4 was also cited as eye witness, this Court is not inclined to differ with the findings of the

Court below on the aspect of negligence. As regards the second contention, that there was no deduction towards personal expenditure of the claimant, the same is not found to be merited, as it is a case of injury and no question of deduction towards personal expenditure would arise.

Hence, 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 13, 2017
DSK

T. RAJANI, J

