

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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M.A.C.M.A.No.676 of 2005

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JUDGMENT:

This appeal is preferred by the claimant in O.P.No.1784 of 2001 on the file of the Motor Accidents Claims Tribunal (Fast Track Court), Nizamabad.

The claim petition was filed by the appellant herein stating that on 20.08.2001 at about 8:00 pm when he was going along with one Balapuram Raju on Suzuki motor cycle bearing No.AP 25 F 3214, on the way at Gupanpally Chowrasta one Yamaha motor cycle bearing No.AP 25 F 3669 coming from Armour at high speed in a rash and negligent manner hit the motor cycle of the claimant. In the said accident, the claimant sustained multiple grievous injuries. He was shifted to Government Hospital, Nizamabad, and thereafter, he took treatment from various doctors. The said case was contested by respondent Nos.1 and 2 herein. The Tribunal framed the following issues:

- “1. Whether the accident has taken place due to rash and negligent driving of the driver of the Yamaha motorcycle bearing No.AP-25-F-3669 by its driver?
2. Whether the petitioner is entitled for compensation? If so, to what just amount and from which of the respondent?
3. To what relief?”

The claimant was examined as P.W.1, who marked Exs.A1 to A8. The claimant also examined one Dr.L.Ramulu as P.W.2, through Commissioner. Though the second respondent did not examine anyone, it filed Ex.B1 – copy of insurance policy. The Tribunal, on evidence, held that the accident occurred due to rash and negligent driving of the driver of the vehicle bearing No.AP 25 F

3669. The Tribunal noticed that the claimant sustained four grievous injuries and one simple injury as per Ex.A3 – wound certificate. It accordingly awarded the following amounts:

- 1. (4) grievous injuries at Rs.5,000/- for each injury - Rs.20,000.00
- 2. Probable expenditure for treatment - Rs.20,000.00
- 3. Pain and suffering - Rs.10,000.00
- 4. Loss earnings - Rs.18,000.00

TOTAL : Rs.68,000.00

Learned Counsel for the appellant submits that the amount awarded by the Tribunal to the four grievous injuries is grossly inadequate. He also submits that the amounts awarded towards pain and suffering, loss of earnings and for treatment are also on the lower side.

Ex.A3 – wound certificate, and Ex.A4 – disability certificate, were issued by P.W.2, who was found to be a stock witness in many cases and his evidence was not reliable. Though the claimant filed Ex.A1 – copy of FIR, and Ex.A2 – copy of charge sheet, there is no certificate issued by the Government Hospital at the time of admission and no discharge certificate was also produced. There is no evidence to show that the claimant was hospitalized for quite some time and surgery was performed on him. It is relevant to notice the statements made by P.W.2 in his cross examination, which read as follows:

“Petitioner is not present today. I have given first aid only to P.W.1, but not treated. P.W.1 is not treated as inpatient. It is not true to say that Ex.A3 is not corresponding to Ex.A4. It is true while issuing Ex.A3 and A4 I have not obtained any X-rays. It is not true to say that I issue excessive percentage of disability to help P.W.1. Ex.A3 and A4 are issued on my private capacity. This type of injuries are possible by falling on hard surface from height. It is true that I have not mentioned this is the case of R.T.A. in Ex.A3 and A4. It is true with this disability P.W.1 can do this normal routine work. P.W.1 does not have any loss of earning.”

The above statements made by P.W.2 make it clear that Exs.A3 and A4 were issued in his private capacity and he also opined that the injuries are possible by falling on hard surface from height. He also stated that P.W.1 had not lost any earning capacity and can do normal routine work. It was also stated that the claimant was not treated as inpatient and he issued Exs.A3 and A4 without examining any X-rays.

In the absence of reliable evidence, this Court is not inclined to accept Exs.A3 and A4 produced by the claimant. However, since the Tribunal has already awarded some amount basing on Ex.A3, the said amount is not disturbed, but on over all facts and circumstances of the case, this Court is of the opinion that the appeal cannot be allowed.

The appeal is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

18.11.2015

vs

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