

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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M.A.C.M.A. No.669 of 2005

JUDGMENT:

This appeal is filed by the petitioner in O.P. No.786/2003, whose application for compensation was dismissed. The appellant herein, who was the petitioner filed the said application claiming compensation for a sum of Rs.1.00 lakh alleging that he was a casual labour in SCC Limited and was earning Rs.7000/- per month, that on 05.01.2003 at about 1.30 P.M, when he was proceeding in an Auto bearing registration No.AP 1U 3962, driven by the first respondent, and when the first respondent tried to overtake a Suzuki motor cycle and applied sudden break, he fell down and sustained injuries. He took treatment in Sai Orthopaedic and Maternity Clinic, Mancheri from 05.01.2003 to 06.01.2003. He was in bed rest for three months and spent nearly Rs.15,000/- for treatment. The petitioner examined himself as PW1 and exhibits A1 to A8 were marked. On behalf of the third respondent insurance company, RW1 was examined and Ex.B1 was marked.

The third respondent contended that the accident took place in Adilabad District, but the petitioner did not produce any evidence to show that he is a resident of Karimnagar District and the Court is not having jurisdiction. The petitioner also failed to examine the Doctor and there was ten days delay in lodging the complaint. The name of petitioner was not mentioned either in the FIR or in the charge sheet. The Tribunal framed the following issues:

1. Whether the accident took place due to rash and negligent driving of Auto No.AP-1U-3962 by its driver?
2. Whether the petitioner is entitled to compensation and if so, to what amount and from whom?
3. To what relief?

The Tribunal noticed that Ex.A.1-FIR complaint does not contain the name of the petitioner, but the complaint shows that one Barla Rajaiah's wife sustained injuries in an auto accident. In Ex.A2-charge sheet, the petitioner was shown as LW5, but nowhere it was mentioned as an injured. The entire charge sheet was typed and the name of petitioner was inserted with a pen. The petitioner did not examine any person to show that he was traveling in the said Auto on the date of accident. As per Ex.A3-Wound Certificate, he was admitted on 05.01.2003 and was discharged on 06.01.2003 whereas the complaint was lodged on 15.01.2003. Thus, there was no nexus in between the date of referring of PW1 to the hospital and the date of lodging of the complaint. The petitioner also failed to produce any evidence to show that he was a resident of Karimnagar District to file the claim petition before the Tribunal. Though the last ground may not be sustainable, in view of the other grounds mentioned by the Tribunal, the dismissal of claim petition by the Tribunal is sustainable and it does not call for any interference.

Accordingly, this Appeal is dismissed. There shall be no order as to costs.

Miscellaneous petitions pending, if any, in this appeal shall stand closed.

A.RAMALINGESWARA RAO, J

03.11.2015

MVA

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Date: 03.11.2015

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