

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

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M.A.C.M.A.No. 1926 of 2005

JUDGMENT:

Aggrieved by the order dated 15.03.2005 in O.P.No.760 of 2002 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-IV Additional District Judge (Fast Track Court), Nizamabad (for short, 'the Tribunal'), whereby and whereunder, the Tribunal dismissed the claim petition laid under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') and the Rules framed thereunder, seeking compensation of Rs.2,00,000/- for the injuries said to have sustained by the petitioner in a road accident, the instant appeal is preferred.

2. The appellant herein is the petitioner, while the respondent Nos.1 and 2, who are the driver, owner and insurer of the accident vehicle respectively, were respondents in the original petition.

3. For the sake of convenience, the parties hereinafter referred to as they were arrayed before the Tribunal in the original petition.

4. The facts in brief are that on 04.04.2001 at about 1-00 p.m., the petitioner was travelling on a tractor bearing registration No.AP 02T 3880 to go to Bandipur from Secundrapoor village to unload the concrete at railway line. Since the driver of the tractor suddenly started the tractor in a rash and negligent manner, the accident has occasioned, as a result of which, the petitioner sustained seven stitches from abdomen to belly, injury to lever, injury to left hand, head injury, multiple and grievous injuries on his person and immediately he was shifted to Pragathi Hospital, Nizamabad and treated there by incurring huge amount, and, accordingly, became permanently disabled, therefore, sought a sum of Rs.2,00,000/-, though he estimated the amount at Rs.29,53,000/- under the special damages and general damages by quantifying the amounts under each head as detailed in paragraph-4 of the order.

5. Respondent No.1-owner of the tractor filed counter resisting the claim, however, he denied that since the accident vehicle was having valid insurance policy, the 2nd respondent-Insurance Company alone is liable to pay compensation.

6. Respondent No.2 opposed the claim by raising various pleas.

7. Basing on the said pleadings, the Tribunal framed following issues about the responsibility for the accident:

"i. Whether the accident has taken place due to rash and negligent driving of the vehicle bearing No.AP-02-T-4171 & AP-02-T-3889 by its driver?

ii. Whether the petitioner is entitled for compensation? If so to what just amount and against whom?

iii. To what relief?"

8. During enquiry, the petitioner examined himself as P.W.1 besides examining Dr. N.Shyamsunder Reddy as P.W.2 and marked Exs.A.1 to A.8; whereas, on behalf of the 2nd respondent-Insurance Company, one T.Rajender Sharma was examined as R.W.1 and marked Exs.B.1 and B.2, which are copies of insurance policy and goods carrying permit.

9. The Tribunal taken up issue Nos.1 and 2 for common discussion and having assessed the evidence of P.Ws.1 and 2, finding that (i) there was 18 days delay in lodging the F.I.R., for which there was no satisfactory explanation; (ii) Ex.A.3 wound certificate issued by P.W.2 does not disclose as to how the petitioner sustained injuries on his person; (iii) the evidence of P.W.2 is silent as to how the petitioner sustained injuries, though, P.W.2 basing on Ex.A.3 stated that the petitioner was discharged on 26.04.2001 and if it was really a medico legal case, the hospital authorities were under the obligation to inform the police immediately, which was not done; (iv) P.W.2 has not produced any medical record from Pragathi Hospital to show that the petitioner was treated in the said hospital; (v) Ex.A.3 was issued on the letterhead of Pragathi Hospital instead of issuing it in proforma provided for medico legal case; (vi) the admission of P.W.2 that he was not examined by the police and in case, it was medico legal case, certainly, P.W.2 would have been called by the police; and considering the cumulative effect of these factors, more particularly, the delay in lodging F.I.R., disbelieving the stand of the petitioner, dismissed the claim petition itself.

10. It is the aforesaid order which is under challenge in the instant appeal contending in the grounds of appeal that the Tribunal did not properly appreciate the evidence on record and there was no reason to disbelieve the contents of F.I.R. and

charge sheet and mere delay in lodging F.I.R. cannot be a ground to suspect the manner in which the accident has occurred and sought to aside the order and grant compensation as claimed.

11. Heard Sri M.Rajamalla Reddy, learned counsel for the appellant-claimant, and Sri N.J.Sunil Kumar, learned Standing Counsel for the 2nd respondent-Insurance Company. No representation for the 1st respondent.

12. Perused the order and the findings recorded and observations made by the Tribunal on issue Nos.1 and 2 based on appreciation of evidence on record, both, oral and documentary, let in by the parties. As seen from the evidence of P.W.2, it is clear that he never whispered as to how the petitioner sustained injuries, though, he asserts that he has issued Ex.A.3 only on letterhead of Pragathi Hospital without any supporting documents as to the treatment given to the petitioner. Besides the same, Ex.A.3, as rightly observed by the Tribunal, does not contain any recital as to how the petitioner sustained injuries on his person. This apart, Ex.A.5, discharge summary, also does not contain as to how the petitioner sustained injuries, and, in fact, it shows that the petitioner was admitted on 04.04.2001 and discharged on 22.04.2001, but not on 26.04.2001 as asserted by P.W.2. Thus, except Exs.A.1, A.2 and A.3, copies of F.I.R., charge sheet and wound certificate respectively, no other material is placed on record to show that the petitioner sustained injuries in a road accident. The suspicion for inordinate delay in lodging the complaint gets concretized in view of the aforesaid circumstances. Further circumstance that there is no explanation from P.W.2 as to why the case of P.W.1 was not referred to the police in case it was a medico legal case stands adverse to the claim of the petitioner. Thus, it is a case where there is no merit at all since the findings recorded by the Tribunal arrived by it while dismissing the claim petition was based on proper appreciation of evidence on record and does not suffer from any legal infirmity warranting interference in the instant appeal.

13. Therefore, the instant appeal is dismissed confirming the order and decree passed by the Tribunal. There shall be no order as to costs.

14. As a sequel thereto, miscellaneous applications, if any pending in the instant appeal, stand disposed of.

A. SHANKAR NARAYANA, J

23rd March, 2015

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