

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A.No.781 OF 2006

JUDGMENT:

Having dissatisfied with the award of Rs.35,000/- by the Chairman, Motor Accidents Claims Tribunal – cum – Special Judge for the trial of offences under SCs and STs (POA) Act – cum – VI Additional Metropolitan Sessions Judge – cum – XX Additional Chief Judge, Secunderabad, by order and decree, dated 09.01.2006, in M.V.O.P.No.120 of 2003, as against the claim of Rs.4,00,000/- laid under Section 166 of the Motor Vehicles Act, 1988, the instant appeal is preferred.

2. The appellant is petitioner and respondent Nos.1 and 2, who are the owner and insurer of the vehicle that involved in the accident, are respondent Nos.1 and 2, in the O.P. before the Tribunal.

3. For the sake of convenience, the parties are hereinafter referred to as they are arrayed in the O.P. before the Tribunal.

4. The facts in brief are that on 08.03.2003, while the petitioner was proceeding on his scooter bearing registration No.AP-24-A-3837, and when it reached Shahn Timer Petrol Bunk, driver of an Ambassador car bearing registration No.ADR-4941 having driven the car at

high speed and in a rash and negligent manner, dashed the scooter of the petitioner, due to which the petitioner sustained grievous injuries and was immediately shifted to 'Kamineni Hospital' for treatment and thereafter, he himself got shifted to 'Doctors Multi Speciality Hospital, Dilsukhnagar'. Later, he has taken treatment from an orthopaedic surgeon and specialist. Thus, he laid a claim for Rs.4,00,000/- against respondent Nos.1 and 2, who are the owner and insurer of the car that involved in the accident.

5. Before the Tribunal, respondent No.1 remained *ex parte*.

6. Respondent No.2 – Insurance Company opposed the claim of the petitioner and obtained permission under Section 170 of the Motor Vehicles Act to take defences available to respondent No.1, by order, dated 15.09.2005, passed in I.A. No.416 of 2003.

7. In the direction of accounting responsibility for the accident, the Tribunal framed four issues. During enquiry, the petitioner, besides examining himself as PW.1, has also examined two more witnesses as PWs.2 and 3 and marked Exs.A-1 to A-19, as to his entitlement for compensation. On behalf of respondent No.2, no oral evidence was let in, but Ex.B-1 was marked.

8. The Tribunal, on issue No.1, having held that due to rash and negligent driving of the driver of the car, the accident has occurred, tendered finding in favour of the petitioner. On issue No.2, by elaborately discussing the evidence of PWs.1 to 3 and assigning the reason that none connected with the medical bills issued by 'Kamineni Hospital', 'Doctors Multi Speciality Hospital' and 'Susrutha Hospital' were examined, declined to grant amounts under such bills and so also on the permanent disability spoken to by PW.3, on the premise that no convincing evidence was let in. Thus, a total sum of Rs.35,000/- was awarded towards compensation with interest at the rate of 6% per annum. It is that order which is under challenge in the instant appeal taking various grounds attacking the appreciation of evidence by the Tribunal.

9. Be that as it may, from a perusal of the material on record, it appears that the petitioner some how could not place the evidence by examining concerned persons working in the above hospitals to prove the medical bills.

That was the reason, the Tribunal has not taken into consideration the medical bills, which run to more than Rs.1,00,000/-. Thus, to prove the authenticity of the bills issued by the aforesaid hospitals, certainly, some one from administrative side ought to have been examined.

Therefore, the matter has to be remitted to the Tribunal for consideration, by giving opportunity to the petitioner and

the contesting respondent to examine the witnesses, not only the non-clinical staff, but also the doctors, whom the petitioner chooses, connected with the documents filed by the petitioner. Since the matter relates to the year 2003, it is desirable to direct the Tribunal to dispose of the matter within a period of six (6) months from the date of receipt of a copy of this order.

10. Subject to the above, the appeal is allowed and the impugned order and decree, dated 09.01.2006, rendered by the Tribunal in M.V.O.P.No.120 of 2003 are set aside.

11. Miscellaneous Petitions, if any, pending in this appeal shall stand closed. There shall be no order as to costs.

A.SHANKAR

NARAYANA, J
February 02, 2015.
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THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

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