

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

C.M.A.No.1060 of 2004

JUDGMENT :

The injured-claimant, Buchi Reddy, in the claim petition, filed this appeal having been aggrieved by the dismissal Order/Award of the learned Chairman of the Motor Accidents Claims Tribunal–cum-I Additional District Judge, Warangal (*for short, 'Tribunal'*) in O.P.No.1378 of 2001 dated 15.12.2003, in the claim petition under Section 166 of the Motor Vehicle Act, 1988 (*for short, 'the Act'*).

2. Heard. Perused the material on record. The parties hereinafter are referred to as arrayed before the Tribunal for the sake of convenience in the appeal.

3. The contentions in the grounds of appeal as well as oral submissions by the appellant-injured that the Tribunal gravely erred in not considering the factum of Ex.A-3 wound certificate issued by the Government hospital categorically establishes that he sustained the injuries in the accident on 27.06.2001 and the wound certificate also noted as injuries sustained at the road accident at 11.00 A.M on that day and admitted there from and there from the mere delay in reporting, irrespective of the length of time, to the police no way fatal and Tribunal given much importance to the delayed F.I.R and even without basis went wrong in the conclusion the conduct of the owner of the vehicle, the insured-respondent in approaching the police with a say that the driver of his vehicle bearing No.AP 36 U 5219 informed that two persons proceeding on the bicycle sustained injuries from the auto dashed against while he was driving and kept the auto in the premises of the owner and left without joining back and thereby set aside the said dismissal order of the Tribunal and prayed to allow the claim as prayed for.

4. Whereas, it is the contention of the contesting 2nd respondent/insurer to the appeal in support of his contention before the Tribunal that the award of the Tribunal is just in rightly dismissing the same, for this Court while sitting even by re-appreciation of the evidence, there is nothing to interfere, hence to dismiss the appeal.

5. Now the points that arise for consideration in the appeal are:

1. *Whether the petitioner sustained injuries on F.N of 27.06.2001 in the*

accident involving crime auto of the 1st respondent undisputedly insured with the 2nd respondent? If so, the dismissal of the claim by Tribunal requires interference, if so with what amount and with what observations?

2. To what result?

POINT-1:

6. The important document which clinches the issue more than 50% is the wound certificate of the Government Hospital covered by Ex.A-10 which categorically shows the injured-petitioner Buchi Reddy of Nagaram, Nekkonda Mandal admitted in the hospital at about 11.00 A.M stating sustained injuries in the road traffic accident. The same was noted in the remarks column of the Ex.A-10. The another injured is Sampath Reddy whose wound certificate of Ex.A-3 of the other claim O.P.No.1390 of 2001 also shows in similar lines of he also admitted that the wound certificate also speaks he also sustained injuries at the same time in the same accident. Once that is the case and the evidence on record shows they were proceeding on bicycle and there is no other motor vehicle, but for the crime vehicle and in the absence of anything showing by the insurer that there is a collusion between the owner and the claimants by attributing any relationship or possibility of collusion muchless by any strong circumstances, the delay in reporting the occurrence to the police no way can be viewed so seriously to belie the case of the claimants that too apart from the said wound certificates the police after investigation filed charge sheet which clearly discloses the driver of the crime vehicle belongs to the 1st respondent caused the accident and the driver having so stated left the vehicle on that day in his premises and left the job; there is nothing to suspect the benefits of the owner that too when there is no oath against oath from the insurer muchless through the employee with reference to any investigation report that to say a collusive outcome or to say false claim. The Tribunal did not properly appreciate these aspects, despite there is no worth cross-examination but for viewing the delay in making mountain of the maul hill. Thus, the material on record with reference to the evidence of P.Ws 1 and 3 also the medical evidence of P.W-2 and 3 respectively with reference Exs.A-3 and A-10 clearly established that they sustained the injuries as claimed by them on that date i.e., 27.06.2001 in the auto accident involved having the auto of the 1st respondent when the vehicle is admittedly insured with 2nd respondent, the 2nd respondent can be made liable to indemnify the 1st respondent-

owner of the auto. The accident is proved as outcome of the involvement of the auto of the 1st respondent due to the rash and negligent driving of the driver of the 1st respondent.

7. Now, coming to the quantum of compensation as per Ex.A-10 wound certificate, there is a punctured wound over 1/3rd of the left leg called fracture. As the treatment in the Government hospital is free of cost for the said injury of the accident dated 27.06.2001, an amount of Rs.20,000/- for pain and sufferance and Rs.10,000/- towards medical expenses, attendant charges, transport charges, loss of earnings, in all Rs.30,000/- is the just compensation to award with interest at 7.5% p.a. only from the date of the appeal till the date of realization. Accordingly, point No.i for consideration is answered.

POINT No.2:

8. In the result, the appeal is partly allowed by awarding compensation of Rs.30,000/- with interest at 7.5% p.a from the date of filing of the present appeal till the date of realization. The respondents 1 and 2 are jointly and severally liable to pay the awarded compensation with interest. The 2nd respondent is hereby directed to deposit the same within one month from the date of this order. The appellant is permitted to withdraw the awarded amount after deposit made by the 2nd respondent by filing petition for withdrawal of amount before the Tribunal. There shall be no order as to costs.

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

Dr. B. SIVA SANKARA RAO, J

Date: 02-04-2015

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