

HON'BLE SRI JUSTICE A. SHANKAR

NARAYANA

M.A.C.M.A. No.2040 OF 2005

JUDGMENT:

Aggrieved by the order, dated 15-04-2005, dismissing the claim made by the petitioner in O.P. No.1898 of 2001, on the file of the learned Chairman, Motor Accidents Claims Tribunal – cum – IV Additional District Judge (Fast Track Court), Nizamabad, the instant appeal is preferred requesting to set aside the order and decree and to grant the amount of Rs.1,00,000/- (Rupees one lakh) as compensation laid under Section 166(1)(a) of the Motor Vehicles Act, 1988, (for short 'the Act'), read with Rule 455 of the Andhra Pradesh Motor Vehicles Rules, 1989, framed there-under.

2. The appellant herein is petitioner in the O.P. before the Tribunal, while respondent Nos.1 and 2, who are owner and insurer of Jeep bearing registration No.MH-26-E 443, respectively, are respondent Nos.1 and 2, respectively.

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

4. The facts, in brief, are that on 05-06-2001, when the petitioner was travelling in a jeep bearing registration No.MH-26-C-4842 from Nizamabad to Navipet, and when it reached near Abhangapatnam bus-stand situate at a distance of 3½ kms. towards south from Navipet police station, a jeep bearing registration No.MH-26-E-443 driven by its driver at high speed in a rash and negligent manner came on wrong side of the road and lost control over the jeep and hit their jeep, due to which, the

petitioner claims that he sustained fractures of left leg and ribs and grievous injuries all over his body. He was immediately shifted to Government Hospital, Nizamabad where he was treated as in-patient and, thereafter, according to him, he took treatment under private doctors and incurred more than Rs.45,000/- towards medical expenses and extra nourishment. Stating that he used to earn Rs.8,000 to Rs.10,000/- per month by running a General and Kirana Shop, sought Rs.1,00,000/- as compensation against respondent Nos.1 and 2, who are owner and insurer of the jeep, respectively.

5. Respondent No.1, owner of the jeep, remained *ex parte* before the Tribunal.

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

7. The Tribunal has framed the following three issues in the direction of fixing responsibility for the accident.

- “ i. Whether the accident has taken place due to rash and negligent driving of the vehicle bearing No.MH-26-E-443 by its driver?
- ii. Whether the petitioner is entitled for compensation. If so to what amount and against which of the respondents?
- iii. To what relief? ”

8. During inquiry before the Tribunal, the petitioner examined himself as PW.1 and marked Exs.A-1 to A-4, whereas, on behalf of respondent No.2, no witnesses were examined, but copy of insurance policy was marked as Ex.B-1 on consent.

9. The Tribunal while answering issue No.1 in favour of the petitioner, disbelieved Ex.A-3, medical certificate, issued by Dr. T. Narsing Rao, making certain observations contained in paragraph Nos.4 and 5 thus:

“14. As per the evidence and pleadings of the petitioner immediately after the accident the petitioner was treated in the Govt. hospital, Nizamabad, which is supported by Ex.A-2 charge sheet filed by petitioner. As per Ex.A-2 charge sheet the petitioner was treated by Dr.Brhamaji Rao, Civil Asst. Surgeon, Govt. Hqrs. Hospital, Nizamabad and this petitioner sustained only simple injuries. The petitioner has not filed any wound certificate issued by Govt.hospital, Nizamabad to prove the injuries. As seen from Ex.A-2 the petitioner sustained only simple injuries. As per Ex.A-3 filed by the petitioner the petitioner sustained grievous injuries. Ex.A-3 was issued by Dr.T. Narsing Rao, who is having habit of issuing false wound certificates and disability certificates in Nizamabad town and who is a stock witness to the MVOP cases. Our Hon'ble High Court in **AAO 3518 of 2004** categorically observed the attitude of this Dr.T.Narsing Rao and Dr.Ramulu and categorically directed the Motor Accident Claims Tribunal and Workmen Compensation Chairman not to act upon the certificates of Dr.T.Narsing Rao & Dr.Ramulu.

15. As per the guidelines of our Hon'ble High Court in AAO 3518 of 2001 that there shall be a direction to the Commissioner, Workmen Compensation, Nizamabad, not to act solely on the evidence of DR.T.Narsing Rao and Dr.L.Ramulu in awarding compensation in the claim petitions pending consideration before them.”

The Tribunal, of course, did not disbelieve Ex.A-2, certified copy of charge sheet, and the petitioner sustaining simple injuries as mentioned therein. But, somehow, has not granted any amount, perhaps, on the premise that the petitioner came with a false claim.

10. Aggrieved by the said order and decree, the instant appeal is preferred by the petitioner contending in the grounds that the claim cannot be rejected on technical grounds and the Tribunal ought to have awarded compensation in view of the decisions reported in AIR 1957 SC 882; AIR 2003 SC 674; 1975 (1) APLJ 258(DB); 1997 (1) ALT 299; (2001) 8 SCC 197; (2001) 9 SCC 167; (1999) 4 SCC 22; (1998) 7 SCC 39; AIR 1994 SC 1671; 1996 ACJ 1044; (2004) 3 SCC 694; and (2003) 4 SCC 262 (para 33).

11. Heard Sri K. Sarala Mahender Reddy, learned counsel for the appellant, and Sri B. Narayana Reddy, learned Standing Counsel for respondent No.2. The instant appeal was dismissed against respondent No.1 for default on 04-01-2012. Since respondent No.1 suffered decree passed by the Tribunal, his absence is of any consequence in view of the decision of this Court in **Meka Chakra Rao v. Yelubandi Babu Rao @ Reddemma**^[1].

12. Now, the short question that arises for consideration is whether the petitioner is entitled to any compensation?

13. Perused the evidence on record and the order passed by the Tribunal which is under challenge herein.

14. The finding recorded by the Tribunal so far as Ex.A-3, medical certificate, issued by Dr.T. Narsing Rao is concerned, cannot be disturbed. But, however, dismissal of entire claim on that premise, certainly, warrants interference in view of the fact that Ex.A-2, certified copy of the charge sheet, clearly reflects the name of the petitioner as LW.4, having sustained simple injuries as mentioned in the body of the charge sheet. When kept in view,

the same, the petitioner is entitled to compensation. So far as simple injuries are concerned, the description of injuries is not forthcoming for the reason that the medical certificate issued by the Government Hospital, Nizamabad, is not filed for the reasons best known to the petitioner.

15. Keeping in view, the fact that the petitioner must have sustained two injuries, because the charge sheet refers to 'plurality', a sum of Rs.6,000/- is granted. So far as the interest is concerned, the same is granted @ 7.5% per annum thereon from the date of petition till realization, as per the decision of the Hon'ble Supreme Court in **Rajesh and others v. Rajbir Singh and others**^[2].

16. In the result, the appeal is allowed, and the order and decree, dated 15-04-2005, in O.P. No.1898 of 2001, passed by the Tribunal, are set aside, and the claim petition is allowed in part, granting compensation of Rs.6,000/- (Rupees six thousand) with interest at the rate of 7.5% per annum thereon from the date of petition till realization. There shall be no order as to costs.

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

A. SHANKAR NARAYANA, J

November 25, 2015.

Mgr

^[1] . 2001 (1) ALD 453 (DB)

[\[2\]](#). 2013 ACJ 1403