

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

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M.A.C.M.A.No.1846 of 2005

Between:

Golla Shankaraiah.

....Appellant

and

Arun Kumar Rungta and others.

....Respondent

JUDGMENT PRONOUNCED ON : 30.11.2015

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO :

1. Whether Reporters of Local newspapers : Yes
may be allowed to see the Judgments?

2. Whether the copies of judgment may be : No
Marked to Law Reporters/Journals?

3. Whether Their Ladyship/Lordship wish to : No

see the fair copy of the Judgment?

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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M.A.C.M.A.No.1846 of 2005

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JUDGMENT:

The claimant in O.P.No.235 of 2002 on the file of the Motor Accident Claims Tribunal – cum – District Judge, Adilabad, is the appellant herein.

O.P.No.235 of 2002 was filed before the Tribunal seeking a compensation of Rs.4,00,000/- for the injuries sustained by the claimant in a motor accident that occurred on 29.03.1995 at about 8.30 pm while the claimant and his friends were proceeding on a Bajaj Chetak scooter bearing No.AP 1A 128 to Srirampur from Mutharam Village and when they reached Ankathpalli, they hit a stationary lorry bearing No.ADT 1111. The claimant fell down from the scooter and he was shifted to Government Hospital, Luxettipet, where he was provided first aid and then referred to Osmania General Hospital. The case was contested by the owner as well as by the insurance company. The Tribunal framed the following issues:

“1. Whether the accident dt.29.3.1995 occurred out of the use of the motor vehicle of R.1 i.e., bearing No.ADT 1111?

2. Whether the petitioner is entitled to any compensation? If so, to what amount and against which of the respondents?

3. To what relief?”

The second respondent filed I.A.No.1059 of 2002 under Section 170 of the Motor Vehicles Act and the said petition was allowed by order dated

30.12.2003. The claimant examined himself as P.W.1 and marked Exs.A1 to A10 on his behalf. The Tribunal, on evidence, held that the claimant himself was responsible for the accident and the driver of the lorry was not negligent. Accordingly, it dismissed the petition by order dated 19.04.2005. Challenging the same, the present appeal is filed.

The first respondent is the owner of the lorry and the second respondent is the insurer. In the absence of any negligence on the part of the first respondent, the Tribunal rightly held that the respondents are not liable to pay any compensation, even if it is assumed that the claimant sustained injuries in the said accident.

I have carefully perused Ex.A9 – certified copy of the scene of offence panchanama, which states that the lorry was parked on the road side margin and stones were put around the lorry at one foot distance. In those circumstances, the claimant himself should have been careful while driving the vehicle. If the claimant took the insurance policy covering his liability also, he should have made the insurance company also a party to the proceedings in order to claim any amount. In the absence of making that insurance company a party, it has to be assumed that the claimant, while taking policy for his scooter, did not cover any liability for himself. The Tribunal came to the conclusion that the version of the claimant that another lorry came in the opposite direction and due to glare of lights he could not see it properly, was absent in Ex.A8. The Tribunal also noticed that Ex.A9 and Ex.A3 showed that the claimant himself was negligent.

In view of the above, the order passed by the Tribunal is correct and the appeal is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

30.11.2015

vs

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