

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

MA.CMA.NO.887 OF 2005

JUDGMENT

Assailing the order and decree dated 04.02.2005 passed by the Motor Vehicles Accidents Claims Tribunal – cum – V Additional Chief Judge, City Civil Court, Hyderabad in O.P.No.997 of 2001 dated 4.02.2005 in dismissing the claim petition filed by the claimant/injured, the present appeal is filed.

The case of the appellant/claimant is that on 6.9.2000 at about 7.00 a.m. while the claimant was proceeding on his cycle to Jirra, Malaimett, Hyderabad, scooter bearing No. AP 9 J 5662, driven by its rider, in a rash and negligent manner, came from opposite direction, dashed against the claimant near Jirrah, Tappachabutra, Hyderabad. Due to the accident, the claimant received injuries and spent huge amounts. The police, Tappachabutra Police Station, registered a case in crime No.120 of 2000 under Section 337 of IPC. With these averments, the claimant filed claim petition under Section 166 of the Motor Vehicles Act, 1988 claiming compensation of Rs.1,00,000/-.

The owner of the alleged crime vehicle remained ex parte.

The insurer filed counter and denying the averments made in the claim petition and sought for its dismissal.

The Tribunal, after framing appropriate issues, and considering the evidence, both oral and documentary on record, found that the petitioner failed to prove that the accident occurred due to the scooter bearing No. AP 9 J 5256 and that the said vehicle was insured with the 2nd respondent – insurer, and accordingly dismissed the claim petition. Hence the present appeal by the claimant.

The learned counsel appearing for the appellant/claimant submits that in the accident in question, the claimant received grievous injuries. The claimant being minor, could not note the number of the scooter involved in the accident correctly. In fact, the rider of the scooter surrendered before the police station and the case was registered. Without appreciating the same, the Tribunal, though found that the appellant is entitled for compensation, dismissed the claim petition on the ground that the appellant failed to prove that the scooter bearing No. AP 9 J 5256 was involved in the accident and that it is insured with the 2nd respondent.

On the other hand, the learned counsel for the 2nd respondent insurance company supporting the impugned order sought to dismiss the appeal.

The case of the appellant is that on 6.9.2000 at about 7.00 a.m., while he was proceeding on his cycle to Jirra, Malmimett, Hyderabad, scooter bearing No. AP9 J 5662 driven by its driver in a rash and

negligent manner, dashed against the appellant and that he received injuries and case in crime No.120 of 2000 under Section 337 IPC was registered in Tappachabutra Police Station.

The police after investigation, filed charge sheet and the copy of same was marked as Ex.A-2. Ex.A-2 revealed that on 06.09.2002 at about 7.00 a.m., one scooter bearing No.AP 13D 3243 dashed against the claimant. In Ex.A-2, the name of the accused is shown as Mohd. Shabuddin. Therefore, based on Ex.A-2, the Tribunal found that the claimant failed to prove that the scooter bearing No. AP 9J 5256 was involved in the accident and that it is insured with the 2nd respondent – insurer.

The 1st respondent who is the owner of the scooter remained ex parte and as per Ex.A-2, another scooter bearing AP 13D 3243 was involved in the accident and one Mohd Shabuddin was shown as accused. The claimant did not take any steps for seeking compensation as per the particulars mentioned in Ex.A-2 charge sheet and he proceeded against the respondents herein and failed to prove his claim. Though the learned counsel submitted that the rider of the scooter bearing No. AP 9 J 5662 surrendered and case was registered, failed to prove the same by producing any tangible evidence. On the other hand, as noted above, as per Ex.A-2, another scooter was involved and the owner of the said scooter is one Mohd Shabuddin.

In these circumstances, though the Tribunal found that the claimant sustained injuries, as he failed to prove his claim against respondents, was constrained to dismiss the claim petition, as such no interference is called for.

The learned counsel for the appellant also could not point out any infirmity in the judgment under appeal. As such I do not find any reason to interfere with the impugned order and the appeal is accordingly dismissed.

Miscellaneous petitions pending, if any, shall stand closed. No costs.



A.RAJASHEKER REDDY,J

DATE:08—02—2018

AVS