

HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

M.A.C.M.A.No.446 of 2006

JUDGMENT:

Aggrieved by the order of dismissal dated 28.10.2005 in M.V.O.P.No.216 of 2001 on the file of the Chairman, Motor Accidents Claims Tribunal – cum- II Additional District Judge (Fast Track Court), Srikakulam, whereby and whereunder the claim of Rs.2.00 lakhs, laid under Sections 163-A and 166 of the Motor Vehicles Act, 1988, as compensation for the injuries said to have sustained by the petitioner in a motor accident, the instant appeal is preferred.

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

Facts, in brief, are that on 26.04.1999 at about 10.30 p.m., a municipal water tanker came to the locality of the petitioner for supplying the water. She has collected the water and while she was going back to her house, the tractor trailer, driven by the first respondent in a rash and negligent manner while taking turn, dashed her, due to which she sustained multiple injuries and was hospitalized and spent an amount of Rs.20,000/- towards treatment. She claims that she has become permanently disabled and the bright chances of married life was deprived and, therefore, claimed Rs.2.00 lakhs as compensation from respondent Nos.1 to 5, who are the driver of the tractor and trailer, owner of the tractor, insurer of the tractor, owner of the trailer and insurer of the trailer respectively. Before the Tribunal, except respondent Nos.3 and 5 - Insurance Companies, the other

respondents remained *ex parte*. They contested the claim. They, in fact, sought to fasten liability throwing the burden on each other while shirking liability.

The Tribunal framed the following four issues:

- “1. Whether the petitioner sustained injuries in the motor accident occurred on 26.04.1999 in Srikakulam town, in which the Tractor/Tanker Nos. APS 7599 & AP 30 T 450 belonging to 2nd and 4th respondents respectively were involved?
2. Whether the accident in question occurred due to the fault of the first respondent/driver of the Tractor/Tanker Nos. APS 7599 & AP 30 T 450?
3. Whether the petitioner is entitled for any compensation, if so, to what amount and from which of the respondents?
4. To what relief?”

During enquiry before the Tribunal, the petitioner examined herself as PW.1. She has also examined Dr.B.Surya Rao as PW.2 and marked Exs.A.1 to A.7 in addition to marking Ex.X.1 – case sheet. One Sri V.V.Durga Prasad was examined as RW.1 on behalf of the respondent, but no documents were filed.

The Tribunal, taken up issue Nos.1 and 2 together for discussion and on finding that the stand of the petitioner was totally inconsistent from what was stated by her before the medical officers and before the concerned police, rejected the claim by assigning certain reasons in support of tendering such findings basing, on which, conclusion was arrived at.

Heard Sri A.Rama Rao, learned Counsel for the appellant, Smt S.A.V.Ratnam, learned Counsel for respondent No.3- United India Insurance Company Limited and Sri Kota Subba Rao, learned Counsel for respondent No.5 – New India Assurance Company

Limited. Perused the order and evidence, both, oral and documentary, let in by the petitioner.

It is contended by the learned counsel for the appellant that the Tribunal was not right in rejecting the claim in toto as there was evidence on record to show that the petitioner has undergone treatment earlier to her admission into the government hospital and that there was some sort of amicable settlement being initiated by the local councillor and that was the reason why the report was not lodged immediately after the accident in the instant case and, therefore, sought to set aside the order passed by the Tribunal, and to award compensation as claimed by her.

The Tribunal has referred to the evidence on record and discussed evidentiary value and found that, in the case sheet, the petitioner, while narrating the date of incident, has stated it as having taken place on 27.04.1999 as against the date of accident shown in the claim petition as 26.04.1999. The second discrepancy which the Tribunal found was that the petitioner has given the name of

Sri G.Sriram Murthy as driver of the vehicle who got her admitted in the hospital, whereas in Ex.A.4, charge sheet, the name of the said G.Sriram Murthy was not finding place and instead, the name of Sri Tangi Rama Krishna was finding place as the driver of the vehicle. The third discrepancy pointed out by the Tribunal was that, while narrating as to how she sustained injuries, the petitioner mentioned to the medical officer, which was recorded in the wound certificate, Ex.A.2, that she sustained injury on 27.04.1999 as "fall from a ladder". Likewise, even in Ex.X.1, it was noted "fallen from

a ladder while white washing the wall of her house and sustained injury at 8.00 p.m. on 27.04.1999". The explanation offered by the petitioner that she was admitted in the hospital of Dr V.Simmanna for a few days; then she was advised to go to government hospital; and that that was the reason why she got admitted in the government hospital on 03.05.1999 was disbelieved by the Tribunal. These have been basic features basing on which the Tribunal did not believe the stand of the petitioner as to sustaining injuries in the accident as alleged by the petitioner. In fact, the observations of the Tribunal were based on what was recorded in Exs.A.2, X.1 and A.1 (First Information Report). The findings tendered by the Tribunal on issue Nos.1 and 2 are well-appreciated and well-reasoned and no legal infirmity is to be found and, therefore, do not warrant interference. This apart, the duty cast on the petitioner, to examine Dr.V.Simmanna and also the local councillor, to whom the petitioner attributed as the mediator alleged to have made an attempt to mediate the accident, was not discharged. In such an event, what was recorded in Exs.A.1 and X.1 was not only the date of sustaining injuries by the petitioner but also the cause recorded in Exs.A.2 and X.1 cannot be sidelined without giving due weight to them as there is no explanation offered by the petitioner. Thus, there is no merit in the appeal.

The Appeal is, accordingly, dismissed. No order as to costs.

Miscellaneous petitions pending, if any, shall stand dismissed.

A.SHANKAR NARAYANA,J

Date: 11.03.2015
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