

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

M.A.C.M.A. No.2646 of 2013

JUDGMENT:

1 This appeal is filed under section 173 of the Motor Vehicles Act challenging the judgment and award dated 27.08.2013 passed in M.V.O.P.No.392 of 2010 on the file of Motor Accidents Claims Tribunal-cum-I Additional Chief Judge, City Civil Court, Secunderabad wherein and whereby the claim petition filed by the petitioners was dismissed.

2 For the sake of convenience, parties to this appeal will hereinafter be referred to as they are arrayed before the Tribunal in the O.P.

3 Petitioners who are wife and son of one J.Chandraiah filed the claim petition under section 166 and 140 of the M.V. Act seeking compensation of Rs.5.00 lakhs for the death of said J.Chandraiah in a road accident. The respondent filed counter opposing the claim of the petitioners.

4 Basing on the rival pleadings, the Tribunal framed appropriate issues. During the course of trial, on behalf of the petitioners P.Ws.1 to 3 were examined and Exs.A.1 to A.6 were marked. On behalf of the respondents though no oral evidence was let in, but, copy of the insurance policy was marked as Ex.B.1.

5 The Tribunal, after appreciating the oral, documentary evidence and other material available on record, dismissed the claim petition on the ground that P.W.2 is not an eyewitness to the accident. Aggrieved thereby the claimants preferred the

present appeal.

6 Now the point for determination in this appeal is:

“Whether there are any grounds to allow the appeal?”

7 The Tribunal dismissed the petition on the sole ground that the evidence of P.W.2 does not inspire the confidence of it and that P.W.2 is not an eyewitness to the accident. At the time of arguments, the learned counsel for the second respondent submitted that the word ‘eye’ was subsequently added in the charge sheet – Ex.A.2. It is an admitted fact that the deceased sustained injuries in a road accident that occurred on 25.6.2010 and died on 04.07.2010 while undergoing treatment in Gandhi hospital, Hyderabad. A perusal of the record reveals that the petitioners spent huge amount for the treatment of the deceased.

8 No doubt there are some corrections in the charge sheet. The respondent has not taken a specific plea in the counter that there are some corrections in the charge sheet. For the first time the respondent has taken a plea that much reliance cannot be placed on the charge sheet in view of the corrections in it. If this Court expresses any opinion with regard to the validity or otherwise of the charge sheet, without giving a reasonable opportunity to the petitioners to prove the recitals of the charge sheet, by examining the competent person, it may cause prejudice to either of the parties to the proceedings. The credibility of testimony of P.W.2 is based on the recitals of the charge sheet. The very object of the Motor Vehicles Act is to provide financial assistance to the victims of road accident. Keeping in mind the object of the Act, I am of the considered

view that this is a fit case to remand the matter to the Tribunal for disposal of the matter afresh, after affording reasonable opportunity to both parties in order to secure the ends of justice.

9 Accordingly, this appeal is allowed and the matter is remanded to the Tribunal with the directions indicated above.

The Tribunal is directed to dispose of the O.P within a period of six months from the date of receipt of a copy of this order.

Consequently, miscellaneous petitions, if any, pending in this miscellaneous appeal shall stand closed. No order as to costs.

T. SUNIL CHOWDARY, J

Date: 14th August, 2015

Kvsn