

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A.No.903 of 2005

JUDGMENT

Aggrieved of the dismissal order dated 03.01.2005 in O.P.No.1397 of 2002 on the file of the Motor Accidents Claims Tribunal-cum-V Additional Chief Judge, City Civil Court, Hyderabad, the instant appeal is preferred by the petitioner, who alleged to have sustained injuries in a road accident on 11.01.2012 at 10.00 AM while he was going to Shankarmutt on his bicycle, during which time, a scooter bearing No.AP 28 F 207 driven by its driver at high speed and in a rash and negligent manner near Andhra Bank, Nallakunta, hit his bicycle and immediately he was shifted to the hospital and even a crime was registered by the Station House Officer, Nallakunta Police Station in Cr.No.44 of 2002 and he sought compensation of Rs.2,00,000/- under Section 166 of the Motor Vehicles Act, 1988.

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

3. The claim petition against the first respondent was dismissed as process was not deposited for service of summons. The second respondent-insurance company opposed the claim of the petitioner.

4. The Tribunal framed three issues about the responsibility for the accident. During enquiry, the petitioner examined himself as P.W.1 and marked Exs.A1 to A7 to substantiate his claim. On behalf of the contesting respondent, R.Ws.1 and 2 were examined

and Exs.B1 and B2 were marked.

5. The Tribunal, while dealing with issue No.1, has specifically observed that Ex.A1-FIR was scribed in Urdu language and no true translation was filed. That apart, even certified copy of the charge sheet was not filed to enable the Tribunal to look into whether who was the accused and whether any offence was levelled against the accused and the police concerned prosecuted him before the concerned Magistrate. The tribunal finally having determined the compensation of Rs.19,500/- and in view of the finding on issue No.1 dismissed the claim petition. It is that order, which is challenged in the instant appeal raising various grounds in the appeal.

6. Heard Sri K. Jawahar, learned counsel for the appellant and Sri Srinivasa Rao Vutla, learned Standing Counsel for R2.

7. At the outset, it is observed that the Tribunal was unable to find out whether any offence was levelled against the accused and whether the driver of the scooter possessed the driving licence at the relevant time and who was the driver even. In that view of the matter, the matter is remitted to the Tribunal for affording chance to both the parties to file a copy of true translation of Ex.A1-FIR and also to secure the certified copy of the charge sheet and mark it as exhibit so as to enable the Tribunal for effective adjudication upon the controversy between the parties.

8. Hence, while setting aside the order passed by the Tribunal, which is challenged herein, the matter is remitted to the Tribunal to dispose of the O.P., preferably, within six months from the date of receipt of this judgment.

9. Accordingly, the appeal is allowed. There shall be no order as to costs. As a sequel thereto, Miscellaneous Applications, if any, pending in this appeal stand disposed of.

A. SHANKAR NARAYANA, J

10th March, 2015

sj