

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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M.A.C.M.A.No.51 of 2005

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JUDGMENT:

This appeal is preferred by the claimant in O.P.No.815 of 2001 on the file of the Special Judge for Trial of Cases under E.C.Act – cum – III Additional Metropolitan Sessions Judge – cum – XVII Additional Chief Judge (MACT), Hyderabad.

The case of the claimant was that on 04.02.2001 at about 6.30 am when he was proceeding by walk from Sabastain road to medical shop situated opposite to Gandhi Hospital to purchase medicines, a scooter bearing registration No.AP 10/K-7753 came in a rash and negligent manner and hit him. He was immediately shifted to New City Hospital. He claimed compensation of Rs.1,00,000/- for the injuries sustained by him. The Tribunal held that the accident occurred due to rash and negligent driving of the driver of the scooter bearing registration No.AP 10/K-7753 belonging to the first respondent and insured with the second respondent. However, with regard to the injuries sustained by him, the claimant stated that he sustained grievous injuries and fracture of right rib 10 and 11. He was shifted to New City Hospital, S.D.Road, Secunderabad, where he took treatment for one day. The Tribunal came to the conclusion that the claimant sustained injuries even prior to the date of the accident, and accordingly, awarded an amount of Rs.2,000/- along with interest at 9% per annum from the date of petition till payment. The Tribunal noticed that the claimant himself stated that he took treatment as in-patient for one day, and hence, he was entitled for an amount of Rs.750/- towards room rent and Rs.250/- towards nursing charges. The Tribunal brushed aside the evidence under Ex.A5 relating to the amount spent for medical expenses with regard to the injuries sustained by him prior to the accident. The claimant did not examine the Doctor who treated him or anyone connected with the New City Hospital.

Learned Counsel for the appellant advanced argument that in view of the finding recorded by the Tribunal, the claimant suffered injuries in the accident and

the documentary evidence filed by the claimant should have been taken into consideration for awarding compensation.

The Tribunal did not award compensation based on the documentary evidence in view of the inconsistencies contained therein. In those circumstances, the claimant should have explained the inconsistencies by examining someone connected with the hospital. In the absence of any reliable evidence with regard to Exs.A3 to A7, the claim of the claimant for enhancement of compensation cannot be entertained.

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)

16.11.2015

vs

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