

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.575 of 2005

JUDGMENT:

The instant appeal is preferred by the petitioner in O.P.No.88 of 2001 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-District Judge, Medak at Sangareddy (for short, 'the Tribunal') aggrieved of the order passed by the Tribunal dated 06.12.2004, whereby and whereunder the claim of the petitioner was rejected for damages to his lorry bearing registration No.ADT 9034 involved in a road accident by collision with another tanker bearing registration No.UP 15H 6638 on the ground that the petitioner failed to prove that he is the owner of the vehicle, but, however, granted Rs.15,000/- towards injuries to his person, as against the claim for Rs.1,75,000/- laid under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act').

2. The appellant herein is the petitioner, while the respondent Nos.1 and 2 herein, who are the insurer and owner of the tanker bearing registration No.UP 15H 6638 respectively, were respondents in the original petition.

3. For the sake of convenience, the parties are hereinafter referred to as they were arrayed before the Tribunal in the original petition.

4. The facts in brief are that on 03.08.2000 at about 11-15 p.m., the petitioner was driving his lorry bearing registration No.ADT 9034 loaded with MRF tyres and when it reached Kandi village, a tanker bearing registration No.UP 15H 6638 driven by its driver in a rash and negligent manner coming in opposite direction dashed against his lorry, due to which, his lorry turned upside down and he fell on the road and sustained multiple injuries and his lorry was fully damaged and he

spent Rs.1,75,000/- for its repairs. Hence, the petitioner sought the said amount from the respondent Nos.1 and 2, who are the insurer and owner of the tanker, respectively.

5. Before the Tribunal, the 2nd respondent-owner of the tanker remained *ex parte* and the 1st respondent-Insurance Company opposed the claim.

6. Basing on the said pleadings, the Tribunal framed, as many as, six issues. During enquiry before the Tribunal, the petitioner examined himself as P.W.1, besides examining Mohd Ayub and Koduru Ramulu as P.Ws.2 and 3, and marked Exs.A.1 to A.6. On behalf of the contesting 1st respondent-Insurance Company, one V.A.Phadmakaram, Official from the local branch, was examined as R.W.1, but no documents were marked.

7. The Tribunal, while tendering findings on issues 1 to 6, recorded a definite finding that the petitioner failed to prove that he is the owner of the lorry, since he has not placed any convincing evidence to show that he is the owner of the lorry, such as RC book. In that view of the matter, rejecting the claim to the extent of damages of the lorry, awarded a sum of Rs.15,000/- towards pain and suffering due to injuries sustained by the petitioner.

8. It is that order which is challenged in the instant appeal contending in the grounds of appeal that the photographs along with negatives and original RC book were handed over to his counsel, but they were not filed into Tribunal and the petitioner was ignorant about the procedure and he cannot be made to suffer pecuniary loss and even the contents of Ex.A.1 were not considered by the Tribunal, and, therefore, sought to grant the balance amount of Rs.1,60,000/- incurred by him, as there is ample evidence to prove that he got repaired his

lorry by spending the amount.

9. Heard Sri Mohan Vinod, learned counsel for the appellant. No representation on behalf of the 1st respondent-Insurance Company. None represents the 2nd respondent.

10. As seen from the order under challenge in the instant appeal, the Tribunal has recorded a definite finding on issue No.3 that the petitioner failed to furnish RC book to prove his ownership of the lorry involved in the accident. It is the submission of the learned counsel for the petitioner that the petitioner due to ignorance could not know about the legal complications and he is deprived of the amounts incurred by him towards the repairs to the lorry. Therefore, it is a case where the matter can be remitted to the Tribunal to decide the ownership by affording an opportunity to the petitioner and respondents so as to enable the petitioner to file RC book and to prove the ownership of the damaged lorry in regard to entitlement for compensation keeping in view the nature of policy and statutory prohibition as to limit of the amount towards damages to the vehicle.

11. In the result, the appeal is allowed setting aside the order and decree dated 06.12.2004 passed by the Tribunal in O.P.No.88 of 2001 and the matter is remitted to the Tribunal with a direction to dispose of the original petition, within a period of six months from the date of receipt of a copy of this order, by affording an opportunity to both sides to lead further evidence as regards proof of ownership of the vehicle. There shall be no order as to costs.

12. As a sequel thereto, miscellaneous applications, if any, pending in the appeal, stand disposed of.

A. SHANKAR NARAYANA, J

04th February, 2015.

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