

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

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M.A.C.M.A. No.2028 of 2005

JUDGMENT:

The instant appeal is preferred having got dissatisfied with the amount of Rs.3,000/- granted by the Chairman, Motor Accidents Claims Tribunal-cum-V Additional District Judge (Fast Track Court), Nizamabad (for short, 'the Tribunal') in O.P.No.25 of 2001 by judgment dated 17.03.2005, as against the claim for Rs.1,00,000/- laid under Section 166(1)(a) of the Motor Vehicles Act, 1988 (for short, 'the Act').

2. The appellant herein is the petitioner, while the respondent Nos.1 and 2, who are the owner and insurer of the lorry bearing registration No.TN 27F 3282 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 29.06.2000, while the petitioner was travelling in a lorry bearing registration No.APJ 6884 from Gollapally to Kamareddy market yard with a load of paddy driven by one Malavath Sharma and when it reached to the spot between Bhavanipet and Palwancha villages at about 10-30 p.m., another lorry bearing registration No.TN 27F 3282 coming from Kamareddy side driven in a rash and negligent manner and at high speed dashed their lorry, due to which he sustained multiple fractures to his left leg and right leg. Accordingly, he was immediately shifted to Government Hospital, Kamareddy, where he was treated as an inpatient and he incurred more than Rs.60,000/- towards medical expenses and extra nourishment. Therefore, he sought Rs.1,00,000/- though he estimated the total compensation at Rs.17,00,000/-.

5. The 1st respondent, owner of the lorry, remained *ex parte* and the 2nd respondent- Insurance Company opposed the claim raising various pleas.

6. Basing on the said pleadings, the Tribunal framed three issues about the responsibility for the accident. During enquiry before the Tribunal, the petitioner

examined himself as P.W.1, besides examining Dr.L.Ramulu as P.W.2 and marked Exs.A.1 to A.6. On behalf of the contesting respondent-Insurance Company, no evidence was placed.

7. The Tribunal, on issue No.1, on appraisal of evidence, more particularly, the evidence of P.W.1 and Exs.A.1 and A.2, which are the certified copies of F.I.R. and charge sheet respectively, held it in favour of the petitioner. On issue Nos.2 and 3, the Tribunal did not agree with the stand of the petitioner in view of conflicting entries in the medical records from the Government Hospital, Kamareddy and having found one simple injury, awarded Rs.3,000/- with interest at 9% per annum.

8. It is that order which is under challenge in the instant appeal contending in the grounds of appeal that the Tribunal did not properly appreciate the evidence on record and ought to have granted interest at 12% per annum and the Tribunal was not right in discarding Ex.A.6, disability certificate, issued by Dr.L.Ramulu and the bills for Rs.9,201/- under Ex.A.4.

9. Heard Sri K.Sarala Mahender Reddy, learned counsel for the appellant, and Sri N.J.Sunil Kumar, learned Standing Counsel for the 2nd respondent-Insurance Company. None appears for the 1st respondent despite service of notice.

10. Perused the order under challenge and the evidence on record, both, oral and documentary. It is clear that Ex.A.2 certified copy of charge sheet would clearly reflect that the offence punishable under Section 337 I.P.C. was clutched against the driver of the lorry mentioning in the body of the charge sheet that one Dr.Venkateswarlu, Deputy Civil Assistant Surgeon, Government Hospital, Kamareddy treated the petitioner and that was the reason why, the evidence of P.W.2 and the documentary evidence through Exs.A.3, A.4 and A.6 were rejected by the Tribunal. In fact, a duty was cast on the petitioner to file medical certificate issued by the Government Hospital and examine Dr.Venkateswarlu, Deputy Civil Assistant Surgeon, who issued medical certificate in case he did really sustain fractures. Therefore, the finding recorded by the Tribunal that the petitioner sustained only simple injuries, basing on Ex.A.2, cannot be faulted with. Therefore, there is no merit at all and the appeal is liable to be dismissed.

11. In the result, the appeal is dismissed confirming the judgment and decree dated 17.03.2005 passed by the Tribunal in O.P.No.25 of 2001. 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

02nd February, 2015.

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