

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

-
M.A.C.M.A.No.2074 of 2005

JUDGMENT:

The petitioner in O.P.No.479 of 2003 on the file of the Motor Accident Claims Tribunal (V Additional District Judge) at Nizamabad (for short, Tribunal) is the appellant herein. He filed the said OP claiming a compensation of Rs.2,00,000/- for the injuries sustained by the him in a motor accident that occurred on 11.01.2003 when he was traveling in an auto bearing No.AP 25U 2647 from Mubaraknagar Village to go to Nizamabad. When the auto reached in front of RBVRR School at Mubaraknagar road, a lorry bearing No.AHJ 4969 came from Armour side in a rash and negligent manner and dashed the auto.

2. The Tribunal, on the basis of the oral and documentary evidence, held that the accident occurred due to rash and negligent driving of the driver of the lorry bearing No.AHJ 4969. With regard to the compensation, the petitioner relied on Ex.A4 wound certificate issued by one Dr.T.Narsing Rao who was not examined. The Tribunal disbelieved Ex.A.4 wound certificate by observing as follows:

“ In support of his oral evidence, he placed reliance on documentary evidence Ex.A-4 CC of wound certificate. Though in cross-examination he claimed that Ex.A-4 is the CC of wound certificate issued by government hospital but in cross-examination he admitted that Ex.A-4 is the CC of wound certificate issued by private doctor who treated him. Admittedly, the said private doctor was not examined by the petitioner. The case of the petitioner is exaggerated one with regard to period of treatment for fifteen days as inpatient in private hospital. As per copy of the chargesheet marked as Ex.A-2 Dr.T.Narsing Rao (LW-9) of Tirumala Nursing Home, Nizamabad treated the injured persons including the petitioner herein. Whereas the petitioner on the contrary claims in his pleadings as well as in oral evidence that immediately after the accident he was admitted in government hospital, Nizamabad. The petitioner wantonly suppressed wound certificate of government hospital, Nizamabad. Ex.A-4 being certified copy of private document cannot take place of legal evidence unless and author of said document is examined coupled with the record maintained by private hospital in regular due course of its business containing the treatment given to the petitioner. On the other hand, Ex.A-4 does not contain number of Medico

Legal Case. It also does not contain that x-ray film was taken. Simply the doctor noticed two grievous injuries i.e., (i) fracture of tibia of right leg and (ii) fracture of medial malleolus of right ankle and one simple injury to the forehead in the form of abrasion measuring $\frac{1}{2}$ " x $\frac{1}{2}$ ". As per chargesheet, the petitioner is treated by the private doctor Dr.T.Narsing Rao who issued original of Ex.A-4. Unless and until x-ray film, report of Radiologist claimed to have been taken by the private doctor at the time of treatment are produced, the findings of the private doctor under Ex.A-4 is with regard to nature of grievous injuries cannot a conclusive proof..."

3. The Tribunal also took into consideration the observation made by this Court in CMA.No.3518 of 2004 dated 09.11.2004, wherein it was observed that the Tribunal could not rely on the evidence of said Dr.T.Narsing Rao and Dr.Ramulu in awarding compensation. The Tribunal accordingly awarded an amount of Rs.3,000/-, by award dated 30.06.2005.

4. In the absence of any evidence of the injuries sustained by the appellant, this Court is not inclined to enhance the amount of compensation and accordingly the appeal is dismissed. Miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

A.RAMALINGESWARA RAO, J

Date: 10.12.2015
TJMR