

HON'BLE SRI JUSTICE G. SHYAM PRASAD

M.A.C.M.A. No. 758 OF 2006

JUDGMENT:

1. This Appeal is arising out of the order, dated 07.11.2005, in O.P. No.1551 of 2001 on the file the Chairman, Motor Accidents Claims Tribunal-cum-IV Additional District Judge (FTC) at Nizamabad (for short, 'the Tribunal').

2. Appellant herein is the petitioner in O.P. No.1551 of 2001, filed under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') claiming compensation of Rs.3,00,000/- for the injuries sustained by him in a motor vehicle accident that occurred on 30.06.2001.

3. 1st respondent herein is the owner of the crime Jeep bearing No.AP25D 4020 and 2nd respondent is its insurer.

4. The Tribunal, on consideration of the evidence of PW.1 – appellant, and PW.2 – medical officer, and the documents marked as Exs.A-1 to A-12 on behalf of the appellant, and Ex.B-1 on behalf of the respondents, dismissed the petition with costs disbelieving the occurrence of the accident itself.

5. Feeling aggrieved by the dismissal of the petition, the appellant herein approached this Court for grant of compensation.

6. The brief facts of the case are that while the appellant was driving his TVS Suzuki motorcycle bearing No.AB25D 1403 from Dharipally towards Nizamabad side, on 30.06.2001, at about

07:50 p.m., and when he reached Yellareddy pally village, one Jeep bearing No.AP25D 4020, being driven by its driver in a rash and negligent manner, dashed against him, as a result of which, he received several injuries. Immediately, he was shifted to Amrutha Laxmi Multi Specialty Hospital, Nizamabad, wherein Dr. G. Jaya Prakash, Ortho Surgeon, and other doctors treated him. Though, the appellant initially claimed compensation of Rs.13,30,000/-, subsequently, he restricted his claim to Rs.3,00,000/-.

7. Mr. P. Radhive Reddy, learned counsel for the appellant, submitted that in the light of the evidence of the witnesses and documents marked, the accident is proved beyond reasonable doubt. Police have registered a case in Crime No.34 of 2001 under Section 338 of I.P.C., which is marked as Ex.A-1, and after investigation filed charge sheet, which is marked as Ex.A-2. Ex.A-3 is the wound certificate issued by the concerned medical officer; Ex.A-4 is bunch of medical bills 16 in number. The TVS Suzuki motorcycle, on which the appellant was traveling at the time of accident, was damaged and for repairs of the same he purchased spare parts and Ex.A-5 is the bill showing purchase of spare parts; Ex.A-6 is the C-Book of Suzuki motorcycle; Ex.A-7 is the driving license of the appellant; Ex.A-8 is the business license; Ex.A-9 is the policy receipt; Ex.A-10 are the photos 2 in number and Ex.A-11 is the x-rays 9 in number and Ex.A-12 is the case sheet which would clearly prove that the accident had occurred on 30.06.2001 around 08:00 p.m. in the outskirts of Yellareddy pally village and the appellant had received injuries in the accident and had taken

treatment. The Tribunal ignoring all these documentary evidence, expressing suspicion about the version of the appellant, dismissed the petition.

8. Appeal against Respondent No.1, owner of the crime Jeep, was dismissed for default *vide* order of this Court on 25.04.2016.

9. Mr. T. Ramulu, learned standing counsel appearing for the 2nd respondent-insurance company, submitted that the Tribunal has observed that no accident has occurred on 30.06.2001. The appellant has fabricated all the documents with the help of Medical Officer - PW.2, created false documents and filed this case. Therefore, the Tribunal has properly appreciated the evidence on record and dismissed the Petition.

10. The points that arise for consideration in this matter are:

1. Whether the accident occurred on 30.06.2001 at Yellareddy pally village, as alleged in the petition?
2. Whether the appellant received injuries in the said accident and taken treatment in the hospital, as averred in the petition?
3. Whether the appellant is entitled for any compensation in this matter?

11. POINT Nos.1 to 3: Since all these points are interconnected, they go together. The appellant has adduced evidence before the Tribunal. He was examined as PW.1 and in his evidence, he clearly stated that he received several injuries in the said accident occurred on 30.06.2001 at Yellareddy pally village. He further stated that he was shifted to Amrutha Laxmi Multi Specialty Hospital,

Nizamabad, where he underwent treatment as inpatient for 20 days. He had undergone operation twice to his right hand and right leg and steel rods were inserted; medical expenditure incurred by him till then was Rs.1,50,000/-, in support of which, Dr. G. Jaya Prakash was examined as PW.2. PW.2 stated that on 30.06.2001, the very date of accident itself, he examined PW.1 with the alleged history of road traffic accident.

12. The testimony of PW.1, appellant herein, coupled with the testimony of PW.2, clinchingly prove that the accident had occurred on 30.06.2001 and the appellant had received the following injuries in the said accident.

1. A laceration measuring 8 x 3 c.m. over the forehead extending from route of the nose to the hair line corresponding x-ray revealed fracture of frontal bone;
2. Laceration measuring 4 x 3 c.m. over upper lip;
3. Swelling over right fore-arm corresponding x-ray reveals fracture of ulna;
4. Swelling over right foot and x-ray revealed fracture of 2nd, 3rd, 4th and 5th metatarsal bones.

13. Thus, from the above medical evidence of PW.1, it is clear that the appellant had received three grievous injuries *i.e.* injury Nos.1, 3 and 4, and one simply injury *i.e.* injury No.2.

14. PW.2, medical officer, has produced the case sheet, Ex.A-12, as per which the appellant underwent an operation on 03.07.2001 to his right fore-arm and plates were inserted. All this evidence has been ignored by the Tribunal and only basing on surmises and conjectures erroneously dismissed the petition holding that no

accident had taken place and no treatment was done to the appellant with regard to the accident.

15. There is no evidence coming forward to prove that the documents marked as Exs.A-1 and A-12, filed by the appellant before the Tribunal, are fabricated or false documents. If really, those documents are false, the Tribunal ought to have initiated action against the concerned. The respondents also did not bring any evidence to prove that the documents filed before the Tribunal are false and fabricated. There is no evidence on record to show that the testimony of PW.2 is false. The Tribunal has dismissed the claim of the appellant mainly on the ground that Ex.A-1 – F.I.R. was lodged with a delay of 8 days and that there is interpolation in Ex.A-12 - case sheet with regard to receiving of injuries. Mere delay in lodging the F.I.R. after 8 days cannot be taken into consideration for disbelieving the very accident that has occurred in this case. There is no substantial and concrete evidence to disbelieve the very accident that has occurred. Interpolation in the medical certificate also does not totally discredit the testimony of the medical officer. When the appellant is before the Tribunal and the medical officer has issued certificate and gave evidence stating that the appellant had received four injuries out of which three are grievous and one is simple in nature, that evidence cannot be brushed aside, merely because there is an interpolation in the medical records. Unless the interpolation is proved to be a fabricated and manipulated entry, it cannot be discredited. As a whole, on consideration of the entire evidence available on record, the findings of the Tribunal do not

appear to be on sound legal principles. Therefore, the findings of the Tribunal are hereby set-aside holding that the appellant is entitled for compensation from the respondents.

16. In view of my foregoing discussion, and in the light of the oral and documentary evidence available on record, it can be safely concluded that the appellant met with an accident on 30.06.2001, which occurred at the outskirts of Yellareddy palli village, due to the rash and negligent driving of the driver of the Jeep bearing No.AP25D 4020, is proved from the evidence of PW.1. Considering the nature of injuries suffered by the appellant and the principle laid down by the Apex Court in *Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another*¹, this Court feels it appropriate to award compensation to the appellant.

17. The following is the tabular form showing the amount of compensation awarded by this Court under the relevant heads:

S.No.	Name of Head	Compensation awarded
01.	Grievous injuries	Rs.45,000/-
02.	simple injury	Rs.5,000/-
03.	Pain and suffering	Rs.10,000/-
04.	Transportation, attendant and miscellaneous expenses	Rs.5,000/-
05.	Loss of earnings	Rs.10,000/-
TOTAL		Rs.75,000/-

18. In the result, the order, dated 07.11.2005, in O.P.No.1551 of 2001 passed by the Tribunal is set aside. The appeal is allowed in part. The compensation of Rs.75,000/- is awarded with proportionate costs and interest @ 7.5% per annum from the date of

¹ AIR 2009 SC 3104

petition till realization. Respondents 1 and 2 are jointly and severally liable to pay the compensation. Respondents 1 and 2 are directed to deposit the amount within two months from the date of receipt of a copy of this order. On such deposit, the appellant is permitted to withdraw the same.

19. As a sequel to disposal of the appeal, miscellaneous petitions, if any, pending in this Appeal shall stand closed as infructuous.

G. SHYAM PRASAD, J

Date:18.11.2016.
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HON'BLE SRI JUSTICE G. SHYAM PRASAD

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