

THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

M.A.C.M.A.No. 300 of 2006

JUDGMENT:

This Appeal, under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act'), is arising out of the Judgment, dated 30.05.2005, in O.P.No.792 of 1999 passed by the Chairman, Motor Accidents Claims Tribunal-cum-II Additional District Judge, Nizamabad.

2. The appellant herein is the petitioner and the respondents herein are the respondents before the Tribunal.

3. The appellant, who sustained injuries in a motor vehicle accident, filed the aforesaid O.P. under Section 166 of the Act claiming compensation of Rs.1,50,000/-. The Tribunal, on consideration of the evidence of the appellant as P.W.1 and the documents Exs.A.1 to A.9 and Ex.B.1-Insurance policy, dismissed the O.P., by judgment, dated 30.05.2005. Feeling aggrieved by the same, the appellant preferred the present appeal.

4. Heard the learned counsel for the appellant, and Mr. G. Ramachandra Reddy, learned counsel for the 2nd respondent Insurance Company.

5. Learned counsel for the appellant would submit that the Tribunal has discarded the entire documentary evidence produced by the appellant on the ground of non-examination of the doctor. Therefore, he requested the Court to remand back the matter to the Tribunal for fresh disposal after adducing the evidence of the doctor who treated the appellant.

6. The Tribunal, though proved the accident, did not award any compensation for the injuries sustained by the appellant in the accident. The Tribunal at Paragraph-9 of its judgment observed as follows:

..... Therefore, no credence can be attached to the discharge card covered by Ex.A.3, the medial prescription covered by Ex.A.4, the disability certificate covered by Ex.A5 and the medical bills covered by Ex.A6, because neither the author that issued the medical certificate that authorized person that issued the medical bill covered by Ex.A6 were produced by the petitioner on his behalf. The resultant outcome of the failure on the part of the petitioner to produce the doctor that issued Ex.A2 to A5 and the authorized person that issued the medical bills covered by Ex.A6 besides the author of Ex.A9-X-ray film as those documents covered by Ex.A3 to A.6 and A.9 are remained not proved at all. This goes without saying that the petitioner has failed to prove contention to say that he sustained injuries in the motor accident much less the alleged disability and as such he is not entitled to claim for any compensation from the respondent in O.P. although the insurance policy covered by Ex.B1 as well as Ex.A8 was in force by date of the accident. The fate of the petitioner would otherwise, had the petitioner has produced the doctor that said to have treated him for the injuries sustained in the motor accident in question.”

7. In view of the above and in view of the submission of the learned counsel for the appellant, it is just and proper to remand back the matter to the Tribunal for fresh disposal after giving an opportunity to the appellant to examine the Medical Officer to prove the nature of treatment undergone and the medical expenditure incurred by him.

8. In the result, the appeal is allowed and the order passed by the Tribunal is set aside. The matter is remanded back to the Tribunal for fresh disposal according to law. The Tribunal is directed to dispose of the matter within three (3) months from the date of receipt of a copy of this order, after giving an opportunity to both parties for adducing their evidence on the treatment undergone and the medical expenditure incurred by the appellant.

Consequently, miscellaneous petitions if any pending in the appeal shall stand dismissed. No order as to costs.

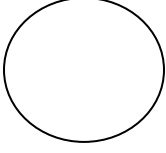
G. SHYAM PRASAD, J

23rd November, 2016

Note: Furnish C.C. by one week.

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