

HON' BLE SRI JUSTICE G. SHYAM PRASAD

M.A.C.M.A. No. 148 of 2006

DATE: 11.11.2016

Between:

Hemraj Kachva

.. Appellant

And

1. The General Manager APSRTC

2. The Depot Manager APSRTC

.. Respondents



JUDGMENT:-

This appeal arises out of the order dated 25.01.2004 in O.P.No. 406 of 1997 passed by the Chairman, Motor Accidents Claims Tribunal (II Additional District & Sessions Judge (Fast Track Court), Nizamabad.

The appellant – Hemraj Kachva, who is injured in the motor vehicle accident, filed O.P.No. 406 of 1997 under Section 166 of the Motor Vehicles Act, 1988 read with Rule 455 of the Andhra Pradesh Motor Vehicles Rules, 1989, claiming compensation of Rs.1,00,000/- on account of injuries sustained by him in the accident occurred on 14.06.1997.

Heard the arguments of Sri P.Radive Reddy, learned counsel for the appellant and Sri N. Vasudev Reddy, learned counsel for the respondents and perused the material placed on record.

The learned counsel for the appellant has submitted that the Tribunal, without considering the evidence on record, dismissed the O.P. without granting any amount of compensation to the appellant. There is ample evidence on record to show that the petitioner met with the accident and received injuries and he had taken treatment in the Government hospital. The Tribunal has disbelieved the evidence of the Medical Officer stating that the investigation of the Medical Officer is not in consonance with the evidence

of the witnesses with regard to the injuries. He has further submitted that even as per the wound certificate – Ex.A2, the appellant sustained two simple injuries and the same has been stated by the Medical Officer. The police have registered a case against the driver of the crime vehicle. Therefore, the appellant is entitled to some compensation.

The learned counsel for the respondents has submitted that there is discrepancy in the evidence of the Medical Officer (PW2) when compared with that of PW1 with regard to the nature of injuries, therefore, the Tribunal rightly dismissed the O.P. and the same cannot be interfered with.

Now, the points for consideration in this appeal are;

- (i) *Whether the appellant is entitled to any compensation?*
- (ii) *Whether there are any grounds to set aside the order dated 25.01.2004 passed by the Tribunal?*

The learned counsel for the appellant has submitted that on 14.06.1997, while the appellant was going by an Auto bearing No. AP25 T 5349, a bus bearing No. AP9Z 8225 belonging to A.P.S.R.T.C., dashed against the Auto, as a result, the appellant sustained injuries in the accident. The Tribunal held that the accident occurred due to rash and negligent driving of the driver of the A.P.S.R.T.C. It is further submitted that due to discrepancies in the evidence of PW1 and PW2 - Medical Officer with regard to nature to injuries,

the Tribunal has dismissed the O.P. Therefore, it is pleaded to consider the aspect that the appellant had received some injuries in the accident and is entitled to compensation for those injuries.

The Tribunal has discarded the entire evidence of PWs. 1 and 2 due to discrepancies in their evidence with regard to nature of injuries sustained by the appellant. The Tribunal ought to have considered the medical evidence of PW2 with regard to the injuries. PW2 - Dr.L.Ramulu stated that he examined the appellant on 10.07.1999 and found post traumatic stiffness of the right knee and hip and movements of the right knee were restricted. He issued Ex.A4 - certificate of disability showing the extent of the appellant's disability as 35%. No doubt, the Tribunal has disbelieved this injury as it was not spoken by PW1, as such, it has rightly ignored that injury and the disability of 35% suffered by the injured. Moreover, PW2, who is a private Medical Officer, issued Ex.A4 – Medical Certificate. Inasmuch as this certificate was not issued by the Medical Board, it was rightly ignored by the Tribunal.

The evidence of the witnesses has to be considered holistically and not by few discrepancies in their evidence. The principle of *falsus uno falsus in omnibus* is not applicable in the Indian context. If there is one line of discrepancy in

the evidence of a particular witness, we cannot discard the entire evidence of such witness treating the entire deposition as false. Admittedly, there are two simple injuries suffered by the appellant in the accident. Therefore, the appellant is entitled to some compensation for those injuries.

The appellant is examined as PW1 who stated that Ex.A2 is the wound certificate. The Tribunal disbelieved this certificate also on the ground that it does not contain the name of the appellant, his father's name and address. In fact, Ex.A2 – certificate was issued by the Government Hospital, Armoor. The certificate reveals that two injuries were sustained by the patient and they are abrasion caused on the left collar bone and the other is contusion caused on the right interior region. Instead of taking injury No.1 as fracture it can be taken as a simple injury for the purpose of awarding compensation in view of the evidence of PW1 that he suffered an injury to his right shoulder which corresponds to injury No.1. The other injury is contusion. Considering these aspects, this Court is of the opinion that the appellant is entitled to compensation for two simple injuries in view of the oral evidence of PWs.1 and 2 and the documentary evidence i.e. Exs.A1 to A3.

In view of the facts and circumstances of the case, the order dated 25.01.2004 passed by the Tribunal is hereby set

aside, and the appellant is awarded compensation of Rs.10,000/- (Rupees Ten Thousand Only) towards two simple injuries sustained by him and Rs.5,000/- (Rupees Five Thousand Only) towards pain and suffering, extra nourishment and attendant & transportation charges.

In the result, the appeal is partly allowed. No order as to costs.

As a sequel, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

11.11.2016

bcj

G. SHYAM PRASAD, J

