

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.1959 OF 2005

JUDGMENT:

Aggrieved by the dismissal order dated 09.06.2005 in O.P. No.1013 of 2000 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-V Additional District Judge, Nizamabad (for short, 'the Tribunal'), the appellant preferred the instant appeal under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act'). In fact, the petitioner sought a sum of Rs.25,000/- as compensation under Section 166(1)(b) of the Act for the damage to the motorcycle bearing registration No.AP 25E 5965 in a road accident said to have caused by a lorry bearing registration No.AP 25T 3077 on 02.01.1999 at about 4-30 p.m. near Mamidipally village limits on highway No.16. He estimated damage to get the vehicle repaired at Rs.35,500/-, but restricted his claim to Rs.25,000/-.

2. The appellant herein is the petitioner, while respondent Nos.1 and 2 herein, who are the owner and insurer of the lorry bearing registration No.AP 25T 3077, are respondent Nos.1 and 2, respectively, in the original petition.

3. For the sake of convenience, the parties hereinafter referred to as they were arrayed before the Tribunal in the original petition.

4. Separate written statements were filed by respondent Nos.1 and 2 strongly resisting the claim of the petitioner attributing false implication of the lorry and fabrication of documents in order to claim compensation.

5. Basing on the said pleadings, the Tribunal framed two issues about the responsibility for the accident. During enquiry, the petitioner examined himself as P.W.1 besides marking Exs.A.1 to A.12 to substantiate his claim; whereas, on behalf of respondent Nos.1 and 2, no witnesses were examined and no documents were filed.

6. The Tribunal, on appraisal of evidence elaborately discussed the factual aspect and did not believe Exs.A.7 to A.12 as genuine documents and holding that the petitioner failed to examine the persons who have issued Exs.A.7 to A.12 as witnesses and other relevant witnesses, dismissed the claim petition.

7. It is the aforesaid order which is under challenge in the instant appeal contending in the grounds that the Tribunal ought to have believed the evidence of P.W.1 and ought to have placed reliance on Ex.A.7 and also ought to have granted Rs.25,000/- as compensation towards damage to the vehicle.

8. Heard Sri M.Rajamalla Reddy, learned counsel for the appellant-petitioner. No representation for

respondent No.2-Insurance Company. Though, no service was effected on respondent No.1, still, it would have any consequence in case the appellant fails to succeed in the instant appeal.

9. Learned counsel for the appellant-petitioner fairly concedes that except the petitioner examining himself as P.W.1, no other witnesses were examined. The evidential rule being that to prove a particular document, necessarily the person who issued the said document ought to present himself in the witness box. But in this case, the bills said to have issued by New Chaitanya Agencies marked as Exs.A.7 to A.12 are not proved in accordance with evidential rule by examination of the authors thereof. This ground alone is sufficient to dismiss the appeal. Further, the petitioner has not chosen to examine even the person who has run the workshop or said to have repaired the vehicle. In that view of the matter, there is absolutely no merit in the instant appeal and the finding recorded by the Tribunal dismissing the claim petition, therefore, cannot be upset.

10. Accordingly, the instant appeal is dismissed confirming the impugned order and decree passed by the Tribunal. There shall be no order as to costs.

11. As a sequel thereto, miscellaneous applications, if any pending in the instant appeal, stand closed.

A. SHANKAR NARAYANA, J

22nd June, 2016

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