

HONOURABLE Dr. JUSTICE B. SIVA SANKARA RAO

M.A.C.M.A.Nos.1121 of 2007

JUDGMENT:

The injured claimant of O.P.No.812 of 2002 on the file of the learned Chairman of the Motor Accidents Claims Tribunal-cum-VIII Addl. District Judge, Nizamabad, (*for short, 'Tribunal'*), filed u/ s. 166 of the Motor Vehicle Act, 1988 (*for short, 'the Act'*), for compensation of Rs.10,00,000/- against the owner and insurer of the crime vehicle lorry bearing No.AP 25 T 9967 for the injuries sustained by him in the motor accident on 08.06.2002 while he along with one Shaik Ali was proceeding on his bicycle, the crime lorry being driven by its driver in rash and negligent manner, came in wrong side and dashed to the claimant injured and ran over his left leg and right leg of Shaik Ali and went off the road and fell into a ditch. On contest by the Insurer, from the 1st respondent-lorry owner remained *ex parte*, the tribunal passed the nil award dated 22.12.2006 dismissing the claim holding that the petitioner's case is false as he did not complain the matter to the police but for by the driver of the lorry. Though the claimant stated that he was shifted to government hospital after accident, he did not produce any documents in proof. The tribunal also not believed the evidence of P.W.2 Doctor by name T. Narsingh Rao, who is famous for issuing false certificates, stated that he examined the injured and found traumatic amputation of left lower limb below the knee and treated the claimant and discharged him and issued Ex.A.3 medical certificate but the said certificate shows it was issued in his capacity as Civil Asst.Surgeon, Govt.Hospital, Nizamabad not in his individual capacity as private doctor. In fact at that time he never worked in Government hospital. The tribunal from the above also relied on the evidence of R.W.1,

employee of the Insurer, that their lorry was not at all involved in the accident. The tribunal held that the fact that the coolies of the lorry made any claim under the Workmen's Compensation Act (for short, 'the W.C. Act') in W.C.No.67 and 73 of 2003 and that were allowed which is subject matter of appeal in High Court, no way entitles the claimant to take advantage therefrom.

2. Impugning the same, the injured preferred the present appeal with the contentions in the grounds of appeal that the tribunal erred in disbelieving the occurrence of accident on that day with the involvement of the crime lorry supra due to rash and negligent driving of its driver, that the tribunal erred in disbelieving the evidence of P.W.2, that the tribunal ought to have seen that the labourers travelling in the lorry filed cases under the W.C. Act, are admittedly pending before this Court and ought to have awarded compensation. Hence prays to set aside the dismissal award of the tribunal by granting compensation as prayed for.

3. The learned counsel for the injured-claimant reiterated the grounds of appeal during the course of hearing.

4. Heard the learned counsel for the 2nd respondent-Insurer, from the 1st respondent/ owner of the crime vehicle remained exparte before the tribunal, even impleaded and served not turned up, also taken as heard as per the expression of M.Chakr Rao v. Y.Baburao¹ and the same is recorded and perused the material on record. Learned counsel for the injured-claimant also relied on the expression of this Court in APSRTC, Hyderabad Vs. Shaik Yousuf Pasha² in which it is held that strict rules

¹ 2001 (1) ALT 495 DB
² 2007(5) ALD 439

of Evidence Act, need not be followed by Tribunals, based on evidence on record, award just and reasonable compensation.

5. The alleged accident was dated 08.06.2002. The name of the petitioner is Allam Narasimhulu. If himself and Shaik Ali were really proceeding on a cycle together and was being dashed by the lorry, sustaining from the alleged ran over of the lorry, injury to left leg by one and to the right leg by the other is hardly believable. It might be a case that the lorry while taking coolies met with an accident having went off road. The awards said to have been passed in favour of the workers under the owner of the lorry in the claims under the W.C.Act supra, not even exhibited to go through the facts therein as to know whether it relates to the similar accident apart from manner of accident of dashing any cyclist, much less the claimant along with another proceeding on one cycle. Thereby the lower tribunal is right in so holding of same is no relevance to the present claim in the absence of anything showing further therefrom. The Ex.A.1 F.I.R. was dated 09.06.2002. Neither the petitioner nor the other person on his cycle Shaik Ali set the law into motion by giving police report. On perusal of the FIR as rightly concluded by the tribunal shows as one of the coolies of the lorry belatedly given report on 09.06.2002. The contents of the report show which is Ex.A.1 FIR in Cr.No.119 of 2002 to the Armour Police Station. Informant one Nanavath Gangadhar, Nizamabad, living by cooli work stated that on the previous day i.e. on 08.06.2002, as usual he went for cooli work on the lorry bearing No.AP 25 T 9967 which belongs to the 1st respondent insured with the 2nd respondent of the claim petition. He stated that it was about 830 P.M. at Manipalli village near culvert while proceeding on road side, the lorry dashed the injured and one other person who sustained leg fractures and the lorry lost

control and went into the ditch on road side and other persons traveling with the concrete load as coolies and the cleaner by name Balaram sustained injuries and in private jeep they were shifted to Nizamabad hospital and he came to know the persons who sustained leg fractures as Narasimhulu and Shaik. In fact, it is pursuant to it, the police filed Ex.A.2 chargesheet against the lorry driver, and on perusal of Ex.A.3 so called injury certificate said to have been issued by Dr.T.Narasingh Rao, on the format showing as if from the SHO, Armoor to the Medical Officer of Government hospital, Armoor, it is asked to treat Allam Narasimhulu- the claimant but the column in the format through whom sent is not mentioned whether constable or any other person and in the time column as 10.06.2002. Doctor T.Narsingh Rao (P.W.2) with stamp as Civil Asst. Surgeon of Government hospital, Nizamabad, mentioned on the reverse side with stamp on 08.06.2002 of there is a traumatic amputation of left lower limb suffered by the injured Allam Narasmihulu. In fact, a perusal of page 2 of Ex.A.3 shows the injured name originally mentioned as Allam Sailu and the same was struck down and added on the top as A.Narasimhulu. When the accident is claimed on 08.06.2002 at 8.30 P.M. and the F.I.R. was not even on that date but on 09.06.2002, how the traumatic amputation of left lower limb of the claimant claimed can be certified with date on 08.06.2002 that too this Ex.A.3 for so certifying shows the requisition given as if on 10.06.2002. It is nothing but a fabricated document and in fact Ex.A.4 discharge certificate issued by P.W.4 T.Narasingh Rao, on 30.06.2002 shows as if in a private hospital by name Tirumala Hospital, Nizamabad and from 08.06.2002 till 30.06.2002, he was treated and operated on 08.06.2002 and discharged on 30.06.2002. Ex.A.3 shows requisition by Armoor police to Government hospital Armoor, the stamp of the Medical officer as Civil

Assistant Surgeon, Nizamabad, and Ex.A.4 issued by him shows he is not the Civil Assistant Surgeon but running a private hospital. Ex.A.4 further shows on 08.06.2002 the injured was admitted and till 30.06.2002 he was treated as in patient. Ex.A.5 final bill with Tirumala hospital, issued by T.Narsingh Rao(P.W.2) on 30.06.2002 shows the patient name mentioned as Allam Shailu and Shailu was struck off and added Narasimhulu, will be showing as if Rs.28,722/ -.

6. Thus the above evidence is suffice to say, the claimant procured false evidence to make a false claim. Right from the First Information Report, everything is managed including in cause filing the chargesheet and belatedly cause issued a police report showing injuries. The M.V.I. report not filed and the lorry was not submitted to examination which is crucial equally by the cycle of the clamant if at all, as had the two persons on one cycle going and for one left leg and the other right leg fractures or crush injuries as allegedly by ran over, the cycle of the claimant could have been crushed. That is not even shown by police much less any claim of damage to cycle and the tribunal therefrom held it is a false implication of some amputation suffered by the claimant somewhere in making the claim. In fact, the insurance company issued notice to the 1st respondent-owner Shaik Jahangeer of the vehicle from the claim maintained for the alleged accident said to have been occurred, why particulars not furnished and at least to furnish particulars including vehicle Registration Certificate, permit, driving license etc., there is no response. The Ex.B.8 Registration Certificate of the vehicle shows Shaik Jaheer is the owner from May, 2002, and Ganga Peddy was the owner from August, 2002, and Peddulu was the owner originally from 1969 to October, 2002 that also shows any cloud and the driver's name mentioned as Bapanna S/o Odelu of Janagaon and he got

only Light Motor Vehicle (for short 'LMV') driving license as per the Ex.B.7. The Ex.A.2=B.5 chargesheet shows that they were originally shifted to Nizamabad hospital, whereas, the Ex.A.3 shows Armoor Government hospital and police requisition is given to Armoor Government hospital as referred supra. The Ex.B.3 arrest and surrender form of said driver Bapanna was dated 17.06.2002 at Armoor police station, saying he voluntarily surrendered which is hardly believable for not a case of even owner produced. Once such is the material and the driver having voluntarily surrendered when questioned pleaded guilty for a fine of Rs.1000/- and paid on the same day of surrender and production of this show nothing but creation to make a false claim with the Insurance company if possible by suppression of facts in the scenario. The tribunal no doubt dismissed the claim in toto. Even once the tribunal came to the conclusion rightly of the accident itself is false and the crime vehicle is falsely implicated, there is nothing to interfere or reverse the said dismissal finding of the tribunal much less to make the insurer liable, for this Court while sitting in appeal.

7. In the result, the appeal is dismissed. There is no order as to costs. Pending miscellaneous petitions, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date:16.11.2016
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