

HONOURABLE Dr. JUSTICE B. SIVA SANKARA RAO

M.A.C.M.A.No. 1125 of 2007

JUDGMENT:

The injured claimant of O.P.No.840 of 2002 before the learned Judge supra filed u/ s. 166 of the Act, for compensation of Rs.5,00,000/- against the owner and insurer of the crime vehicle Maruthi car bearing No.AP 12 9594 for the injuries sustained by him in the motor accident while proceeding along with some others in the crime vehicle on 19.05.2002, which dashed against a stationed tractor due to rash and negligent driving of the driver of the crime vehicle, on contest by the Insurer from the 1st respondent remained *ex parte*, the tribunal passed award dated 30.12.2006 dismissing the claim holding that the evidence of the claimant with regard to the injuries he stated and mentioned in the medical certificate issued by P.W.2 T.Narsing Rao, who is famous for issuing false medical certificates after providing treatment, does not inspire any confidence to believe his version and the claimant failed to explain why he preferred Tirumala Hospital, Nizamabad instead of Government Hospital. Further the version of the claimant stating that he was travelling in the crime vehicle as fare paid passenger which is in violation of terms of policy and Ex.B.1=A.6 policy shows that it is a third party policy and does not cover the inmates of the car since no premium is paid covering the risk of passengers travelling in the car and the policy shows that it prohibits the use of the vehicle for hire or reward and the claimant was travelling as gratuitous passenger, hence Insurer is not liable to pay any compensation; impugning the same, the injured preferred the present appeal with the contentions in the grounds of appeal that the tribunal erred in disbelieving the evidence of P.W.2 Narsing Rao and Exs.A.3 to A.5 and A.7 viz; Injury certificate, discharge

summary, final bill, and X-ray films and also not believed the Ex.B.1 policy which is sufficient to cover risk of the occupants of the car and erred in holding the injured as a gratuitous passenger, hence to set aside the award of the tribunal by allowing the appeal.

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

3. 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.

4. It is not in dispute that the accident was occurred due to the rash and negligent driving of the driver of the car in which the claimant along with some others was travelling as held by the tribunal. The accident took place was on 19.05.2002. The Ex.A.1 F.I.R. was dated 19.05.2002. Neither the petitioner nor the other persons travelling in the car 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 tractor by name Malavath Das given report on the same day of accident in the Nizamabad rural Police Station, which is registered as Ex.A.1 FIR in Cr.No.103 of 2002 shows that on the date of accident i.e. 19.05.2002 at 10.45p.m., while Malavath Das, the informant, along with others while proceeding on Tractor supra from Mudakpalli to Munipalli as agricultural coolies, the driver of the Maruthi car belongs to the 1st respondent insured with the 2nd respondent coming in opposite direction, due to his rash and negligent driving, dashed to their tractor supra as a result, himself along with some others in the tractor sustained

¹ 2001 (1) ALT 495 DB

injuries including the persons in the car. In fact, it is pursuant to it, the police after investigation filed Ex.A.2 chargesheet against the Maruthi car driver.

5. With regard to the injuries sustained by the claimant is concerned, the claimant as P.W.1 stated that he sustained fracture injuries to his right thigh, left leg i.e. ankle place, left elbow and other grievous injuries on head, chest, hands and all other parts of the body. He further stated that immediately after the accident he was shifted to Tirumala Hospital, a private hospital, Nizamabad. In this regard, on perusal of the Ex.A.3 requisition-cum-injury certificate, dated 19.05.2002, it shows that the same is issued by Dr.T.Narsingh Rao, on the format which shows on the first page of it, as if the SHO, Nizamabad Rural requesting the Medical Officer of Government hospital, Nizamabad, to give treatment to Man Mohan Rao-the claimant who said to have sustained injuries in the accident dated 19.05.2002. On reverse side of it, it shows Doctor T.Narsingh Rao (P.W.2) with stamp as Civil Asst. Surgeon of Government hospital, Nizamabad, certifying that claimant was treated for the grievous injuries of lower limb ankle and elbow. On perusal of Ex.A.4 discharge certificate issued by P.W.2 T.Narasingh Rao, shows that as if in a private hospital by name Tirumala Hospital, Nizamabad, the claimant admitted on 30.06.2002 and from 19.05.2002 till 30.06.2002, he was treated as in-patient and discharged on 30.06.2002. Ex.A.3 injury certificate shows it is issued by the P.W.2 T.Narsingh Rao, with the capacity of a Civil Asst. Surgeon, Government Hospital, Nizamabad and Ex.A.4 discharge summery also issued by him shows he is not the Civil Assistant Surgeon but running a private hospital. Thereby the Ex.A.3 and A.4 are fabricated documents and no credence can be given to them as the P.W.2 issued Ex.A.3 injury certificate under

the capacity of Civil Assistant Surgeon, Government Hospital, Nizamabad and Ex.A.4 discharge summary as a doctor from Private hospital for providing treatment to the claimant which raises doubt with regard to his providing treatment to the claimant. There is nothing from evidence of said Dr.Narsingh Rao as P.W.2 explaining the cloud. Thus the above evidence is suffice to say, the claimant produced false documents as if sustained severe injuries to make a false and exaggerated claim.

6. The M.V.I. report not filed and the Maruthi car was not submitted to examination which is crucial even to assess the nature of the injuries from the type of damages to the vehicle it involved. That is not even shown by police much less any claim of damages to car and the tribunal therefrom held it is a false implication of injuries suffered by the claimant somewhere in making the claim.

7. In fact, the insurance company issued notice to the 1st respondent-owner L.Prabhakar Reddy 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., and there is no response. The Ex.A.2 chargesheet shows that the P.W.1 was treated by P.W.2 T.Narsingh Rao, under the capacity of Civil Assistant Surgeon and Ex.A.3 discharge certificate also was issued by him from private hospital, but the P.W.1 in his evidence stated that he was immediately after the accident shifted to Tirumala hospital, which shows no reason why he preferred private hospital run by Dr.T.Narsingh Rao, who is famous for issuing false injury certificates, instead of going to Government Hospital and he was not even shown by then working in government hospital, Nizamabad much less as the duty doctor. Hospital case record even not produced to clear any cloud. Once such is the case,

it can be said from FIR and charge sheet against car driver of the claimant sustained only simple injuries and thus the tribunal instead dismissing in toto should have allowed a nominal amount for pain and sufferance of one or two simple injuries and for treatment.

8. In the result, the appeal is allowed in part awarding compensation of Rs.6,000/- with interest at 7.5%p.a. from the date of claim petition till realization. The respondents are directed to deposit the amount within one month from today. Otherwise, the claimant can execute and recover. On execution or recovery, the claimant is permitted to withdraw the same. There is no order as to costs. Pending miscellaneous petitions, if any, shall stand closed.

Date:16.11.2016
Vvr



Dr. B. SIVA SANKARA RAO, J