

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.1328 OF 2005

JUDGMENT:

Aggrieved by the dismissal order dated 20.12.2004, the appellant, who is the petitioner in O.P. No.764 of 2002 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-IV Additional District Judge (Fast Track Court), preferred the instant appeal under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act') seeking a sum of Rs.2,00,000/- as compensation for the injuries said to have sustained by him in a road accident from respondent Nos.1 and 2.

2. Appellant herein is the petitioner, while respondent Nos.1 and 2 herein, who are the owner and insurer of the auto bearing registration No.AP 25U 990, 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. The facts in brief are that on 05.03.2002 the petitioner was travelling in an auto bearing registration No.AP 25T 9726 from Nizamabad to Mullangi village and when it reached near Jagadeeshwar Rice Mill, Mubaraknagar village on the road leading from

Mubaraknagar to Nizamabad at about 4-30 p.m., another auto bearing registration No.AP 25U 990 driven by its driver in a rash and negligent manner at high speed came from opposite direction and dashed the auto in which he was travelling, due to which, he sustained multiple grievous injuries all over the body and got treated in Government Headquarters Hospital, Nizamabad. He has projected that he spent Rs.40,000/- towards medical expenditure and also Rs.10,000/- towards extra nourishment and, thereby, sought a sum of Rs.2,00,000/- by restricting the claim, though, he assessed the loss of damages and general damages as Rs.10,01,000/-.

5. Respondent No.1-owner of the accident vehicle remained *ex parte*. Respondent No.2-Insurance Company opposed the claim raising various pleas.

6. Basing on the said pleadings, the Tribunal framed the following issues about the responsibility for the accident:

"1. Whether the accident has taken place due to rash and negligent driving of the driver of the vehicle bearing No.AP-25-U-990?

2. Whether the petitioner is entitled for compensation. If so to what just amount and against whom?

3. To what relief?"

7. During enquiry, the petitioner examined

himself as P.W.1 besides examining the doctor as P.W.2 and marked Exs.A.1 to A.5 to substantiate his claim; whereas, on behalf of respondent No.2-Insurance Company, no witnesses were examined and no documents were filed.

8. On appraisal of evidence on record, the Tribunal has taken up issue Nos.1 and 2 and observing that the report received by this Court from the Superintendent, Government Hospital, Nizamabad, clearly reveals that the petitioner was not treated on 05.03.2002 in the Government Hospital, Nizamabad and further observing that the petitioner has not filed any medical proof issued from the hospital that he did really sustain injuries and also making some comments against the doctor-P.W.2, dismissed the claim as false.

9. It is the aforesaid order which is under challenge in the instant appeal contending in the grounds that the Tribunal has not properly appreciated the evidence of P.W.2 and Exs.A.3 and A.5 and the Tribunal was not right in making observations against P.W.2 and, therefore, sought to grant the entire amount of compensation by setting aside the order under challenge.

10. Heard Sri M. Rajamalla Reddy, learned counsel for the appellant-petitioner. No representation on behalf of respondent No.2-Insurance Company. Despite service of notice on respondent No.1, none appears for

him.

11. The observations made by the Tribunal contained in paragraph No.'16' of its order, which are thus:

"As per the evidence of PW-1 he was got treated immediately after the accident in Govt. hospital for one day, but he has not produced any document before the Court to show that he was got treated in the Govt. hospital for one day. As per the report received by this Court from the Superintendent Govt. hospital, Nizamabad, also categorically reveals that this petitioner by name Bobba Shiva Rama Krishna was not treated on 05-3-2002 in the Govt. hospital. But PW-1 got filed EX.A-3 issued by Dr. T.Narsing Rao stating that he was treated on 05-3-2002 at Pragathi Nursing Home, Nizamabad, but he issued the wound certificate under the seal of Civil Asst. Surgeon, Govt. Hqrs. Hospital, Nizamabad, mentioning that the petitioner was treated by name Bobba Shiva Rama Krishna S/o.Subbaiah by him."

sufficient enough to hold that the petitioner has laid an altogether false claim seeking compensation as there is absolutely no material at all to show that he did really sustain injuries in a road accident and got treated himself in the Government Hospital, Nizamabad. Therefore, there is absolutely no reason to interfere with the dismissal order passed by the Tribunal, which is under challenge herein.

12. Accordingly, the instant appeal is dismissed confirming the impugned order. There shall be no order as to costs.

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

A. SHANKAR NARAYANA, J

26th February, 2016

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