

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.CMA.No.1343 OF 2009

JUDGMENT:

The present appeal is preferred assailing the order and decree, dated 23.11.2004, passed in O.P.No.618 of 1997 on the file of Chairman, Motor Accidents Claims Tribunal – cum – I Additional District Judge, Ongole, whereby and whereunder, the claim of the petitioner in the said O.P. for Rs.20,000/- towards damage caused to the Scooter in a road accident was dismissed.

2. Heard Sri Sanisetty Venkateswarlu, learned counsel for the appellant, and Sri G.Purushotham Rao, learned counsel for respondent No.3 – Insurance Company.

3. Though, service was completed on respondent Nos.1 and 2, who are the owner and driver of the bus that involved in the accident, respectively, none appears for them.

4. Learned counsel for the appellant would submit that, though, Exs.A4 and A5, which are the quotations given by Bajaj Auto Servicing Centre, were filed and proved through the evidence of PW.1, who is the appellant - claimant, still, the Tribunal refused to grant the repairing charges on the mere ground that PW.1 was not an eye-witness to the occurrence and that the appellant has not produced any bills showing that he has purchased the accessories quoted in

Exs.A4 and A5 and thus, seeks to set aside the said findings and grant the amounts covered by Exs.A4 and A5.

5. On the other hand, learned counsel for respondent No.3 - Insurance Company would submit that the findings recorded by the Tribunal cannot be found fault with, for the reason that the author of Exs.A4 and A5 was not examined, besides, no material being placed to show that repairs were carried out to the Scooter.

6. The observations made by the Tribunal to the effect that PW.1 was not an eye-witness to the occurrence and eye-witness to the accident was not examined and even the nature of damage caused to the Scooter has not been explained nor detailed by the appellant, and further, the conclusions reached by the Tribunal, on appreciation of evidence of PW.1 and the contents of Exs.A4 and A5, that Exs.A4 and A5 are only quotations and they were not proved, and the appellant has not produced any evidence to show that repairs were carried out to the Scooter by purchasing the parts as mentioned in Exs.A4 and A5, certainly, do not suffer from any legal infirmity and, in fact, they are well reasoned. The very fact that the nature of damage caused to the Scooter is not finding place in the claim petition and the person, who issued Exs.A4 and A5, was not examined and that the appellant failed to adduce evidence to prove that the parts as mentioned in Exs.A4 and A5 were purchased and repairs were carried out to the Scooter, are

sufficient to hold that the order under challenge does not warrant interference.

7. Hence, the appeal is dismissed. Miscellaneous Petitions, if any, pending in this appeal, shall stand closed. No costs.

A. SHANKAR NARAYANA, J

August 09, 2016.
MD

