

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

C.M.A No.1692 of 2001

&

CRP No.2989 of 2001

and

Cross-Objections SR No.85513 of 2001

-

Date:08.07.2016

Between:

The Research Officer,
Regional Soil Testing Laboratory
(A.P. Engineering Research Laboratories)
Cuddapah and another.

... Appellants.

AND

Madireddy Venkataramireddy

...Respondent.

-

Cross-Objections SR No.85513 of 2001

Between:

Madireddy Venkataramireddy

... Petitioner.

AND

The Research Officer,
Regional Soil Testing Laboratory
(A.P. Engineering Research Laboratories)
Cuddapah and another.

...Respondents.

The Court made the following :

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

C.M.A No.1692 of 2001

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-

COMMON JUDGMENT:

The appeal and revision arise out of common order dated 15-03-1997 in MVOP No.388 & 389/1994 on the file of Motor Accidents Claims Tribunal-cum-District Judge, Cuddapah.

2. Appellants and revision petitioners are the respondents in the above two O.Ps, whereas respondent herein is the claimant in both the O.Ps. They are hereinafter referred to as claimant and respondents as arrayed in the original petitions before the Tribunal. Claimant filed O.P. No.388/1994 under Section 140 of the Motor Vehicles Act claiming a sum of Rs.12,000/- as compensation and he filed the other O.P.No.389/1994 under Section 166 of Motor Vehicles Act for a sum of Rs.1,41,000/-. According to claimant, on 25-10-1993, while he was going towards railway station and when he reached near Venkateswara Theatre around 12:00 noon, a Jeep bearing No.AIH 152 came in opposite direction and hit his motor cycle in a rash and negligent manner, as a result, he sustained injuries. According to him, he sustained fracture of clavicle bone and that he was admitted in Government Hospital, Cuddapah, where he undergone operation and thereafter he took treatment in Apollo Hospital, Chennai from 26-10-93 to 02-11-1993. It is further contended that the claimant applied for three months leave and on account of the injuries, he is unable to lift his right arm freely and that he is entitled for compensation both under no fault liability and fault liability. Respondents (appellants and the revision petitioners) resisted the claim of the claimant and contended that there is no negligence on the part of driver of Jeep and the claimant himself had fallen from the motor cycle and made a claim. On these contentions,

enquiry was conducted during which, two witnesses were examined and 9 documents were marked on behalf of the claimant and one witness was examined and one document was marked on behalf of respondents. On a over all consideration of oral and documentary evidence, Claims Tribunal has granted Rs.6,000/- as compensation in O.P.No.388/1994 and Rs.13,000/- as compensation in O.P.No.389/1994. Aggrieved by the compensation granted, the respondents in the claim petition have preferred appeal and revision and the claimant filed cross-objections contending that though claimant produced medical bills for his treatment at Chennai, the Tribunal granted a very meager amount, therefore, the compensation has to be enhanced.

3. Heard both sides

4. Advocate for appellants submitted that the Tribunal grossly erred in granting Rs.10,000/- towards pain and suffering, loss of amenities etc., and Rs.3,000/- towards medical expenses as it already granted Rs.6,000/- in another O.P., under no fault liability. It is further submitted that the Claims Tribunal failed to notice that there is no fault on the part of driver of the Jeep as he was acquitted in a criminal case and submitted that the compensation granted is liable to be set aside.

5. On the other hand, Advocate for claimant submitted that the claimant clearly deposed in his evidence that he took treatment for about seven days in Apollo Hospital, Chennai and incurred around Rs.50,000/-, but the Tribunal completely ignored this part of evidence and only granted a meager sum of Rs.3,000/- towards medical expenses, therefore, the order of the Tribunal has to be modified by awarding more compensation towards medical expenses.

6. Now the point that would arise for my consideration in these appeal, revision and cross-objections is whether orders of Court below are legal, proper and correct?

7. **Point:-** As already referred above, it is the specific case of claimant that he sustained injuries due to the rash and negligent driving of Jeep driver, which hit his motor cycle on 25-10-1993, while he was going to railway station and reached near Venkateswara Theater in Cuddapah. It is the contention of the opposite party that the claimant himself had fallen from his motor cycle and that there is no negligence on the part of Jeep driver. Advocate for appellants contended that criminal case filed against driver ended in acquittal, but the Tribunal has not considered that aspect while examining negligence.

8. I have perused material papers including the impugned order dated 15-3-1997. The very same point was urged before the Tribunal and the learned Presiding Officer recorded a finding that standard of proof in a criminal case is very high since even a little doubt would entitle the accused for acquittal under the principles of a benefit of doubt, but that does not absolve the civil liability. He appreciated evidence including F.I.R., and charge sheet and that of injured himself, recorded that the accident was due to the rash and negligent driving of the driver and the judgment of criminal Court has no bearing. I do not find any wrong in the approach of the Claims Tribunal and as the material evidence disclosed the fault on the part of the driver of the Jeep, the objection of the appellants on this aspect is not tenable.

9. The other contention of the appellants is that the Tribunal granted compensation without any sufficient evidence. On the other hand, it is the contention of the claimant that the Tribunal has not

considered evidence of P.W.1 with regard to medical expenses. As seen from the record, the injured P.W.1 was admitted in Government Hospital, Cuddapah and there he was operated, thereafter, he went to Apollo Hospital, Chennai to have better treatment. He was in-patient in Apollo Hospital from

26-10-1993 to 02-11-1993. Though he stated in his evidence, that he incurred Rs.50,000/- towards expenses for his treatment at Chennai, he only produced bills to a tune of Rs.3,068/-.

He produced some medical bills for his subsequent treatment, which are marked as Exs.A5, but those bills are not supported by necessary prescriptions and even P.W.1 did not whisper anything with regard to these medicines. Considering these aspects, Claims Tribunal granted only Rs.3,000/- towards medical expenditure, which are supported by medical bills and disallowed the remaining claim. It is the burden of the claimant to substantiate with cogent and convincing evidence, the claim towards treatment charges and when he could only substantiate to the extent of Rs.3,068/-, he cannot complain that the Tribunal has not granted the medical expenses as claimed.

Mere claiming is not sufficient, claim has to be supported by convincing evidence hence there is no evidence to support the claim towards medical expenses, therefore I do not find any wrong in the order of the Tribunal in disallowing the claim towards medical expenses claimed and awarding partly only.

10. The other contention of the claimant is that lower authority failed to consider the disability assessed by the Medical Officer-P.W.2 on the ground that P.W.2 is not the competent person to issue disability certificate.

He submitted that as per the decision of this Court in **Jummerath**

Sayanna vs. Md. Arifuddin and others^[1] that there is no hard and

fast rule to prove the disability by producing a certificate issued by medical board and in view of that decision by taking evidence of P.W.2, the compensation has to be calculated on the basis of percentage of disability. I have perused the decision relied on by the claimant. As on the date of passing the order, the law as on that day was, unless the disability certificate is issued by medical board that is competent authority, the Tribunals cannot rely on them to award compensation. Therefore, the Tribunal has not committed any error in applying the law as on that day and this decision which is long after the impugned order would no way help the claimant. Even otherwise, there is no evidence on record to show that on account of disability, he is not able to perform his duties as he was performing prior to the accident. In the absence of any such evidence, the contention of the claimant cannot be accepted.

11. On a over all scrutiny of the material, I am of the view that there are no grounds to interfere with the orders of the Claims Tribunal and both the appeal, revision and cross-objections are liable to be dismissed as devoid of merits.

12. For these reasons, appeal, revision and cross-objections are dismissed as devoid of merits. No costs.

13. As a sequel, miscellaneous petitions, if any, pending in these appeal, revision and cross-objections, shall stand dismissed. No costs.

JUSTICE S. RAVI KUMAR

Date:08.07.2016
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