

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

M.A.C.M.A.NO.2442 OF 2005

JUDGMENT:

This appeal is preferred by the appellant-petitioner against the order, dated 05-04-2005 in O.P.No.421 of 1999 on the file of the V Additional District Judge-cum-Chairman, Motor Accident Claims Tribunal, Nizamabad (for short 'the Tribunal), whereunder and whereby the claim petition was dismissed.

2. The appellant herein is the petitioner, whereas the respondents herein are the respondents before the Tribunal.

3. For the sake of convenience, the parties herein after will be referred to as they were arrayed before the Tribunal.

4. Petitioner herein filed the above O.P. claiming compensation of Rs.2,00,000/- stating that on 03-05-1999 when he was standing at Petrol bunk cross road of Bhainsa, a jeep bearing No.AP-1-C-3786 came from behind in a rash and negligent manner with high speed without blowing horn and dashed against the petitioner, as a result of which, he fell down and front wheel of the jeep ran over his legs. In the said accident, he sustained two fractures to his foot, chest bone and collarbone. He also received injuries on the other parts of the body. He was admitted in Government Hospital, Bhainsa and thereafter, he was shifted to Government Headquarters Hospital, Nizamabad where he was attended by Dr.L.Ramulu and Dr.T.Narsing Rao, Orthopaedic Surgeons. Though, he calculated compensation at Rs.10,50,000/-, but limited his claim to Rs.2,00,000/-. Hence, the claim petition.

5. The Insurance Company filed counter stating that the Insurance Company is not aware of any criminal case launched against the driver of the jeep and in the absence of involvement of the jeep, the petition is not maintainable. It is also stated that the petitioner in collusion with the owner of the jeep, filed the present petition.

6. The Tribunal framed an issue with regard to entitlement of compensation to the petitioner.

7. On behalf of the petitioner, P.Ws. 1 and 2 were examined and got marked Exs.A1 to A4 besides Ex.C1. On behalf of the respondents, no evidence either oral or documentary was adduced.

8. After hearing the parties, the Tribunal framed another issue with regard to involvement of the jeep bearing No.AP-1-C-3786 in the accident.

9. The Tribunal noticed that P.W.1, who is the petitioner stated that on the date of the accident itself, he gave complaint to the police, but Ex.A1-copy of F.I.R. was recorded on some other date on 20-05-1999 with a delay of 18 days. Ex.C1-case sheet of the Government Hospital, Nizamabad shows that the petitioner was discharged on 14-05-1999. No charge sheet was filed in support of the involvement of the jeep in the alleged accident. The Tribunal also noticed that as per Ex.A2, petitioner was admitted in the Government Hospital, Nizamabad on 03-05-1999 and was discharged on 14-05-1999 referring him to Gandhi Hospital, Secunderabad, but in Ex.C1, there was no mention with regard to referring the petitioner to Gandhi Hospital, Secunderabad. Ex.C1 did not contain any endorsement with regard to surgery performed on the petitioner. In fact Ex.C1 does not contain the recording of any fracture injury. Ex.C1 states as follows:

“The injuries found in Ex.C1 are as follows:

- i) A big laceration extending from lower 1/3rd of right up to the knee of left. Fresh, bleeding present. No bone injury.
- ii) Tenderness on medial and of the clavicle.
- iii) Tenderness on the 2nd, 3rd and 4th ribs.”

The evidence of P.W.2 was disbelieved as he was not a doctor who issued Ex.C1. Since the petitioner did not file any x-ray in support of the injuries and also in view of observation of this Court in CMA No.3518 of 2004, dated 09-11-2004 with regard to trustworthiness of evidence of Dr.T.Narasimha Rao, who examined as P.W.2 in this case, the Tribunal disbelieved the case and dismissed the claim petition vide impugned order. The Tribunal also recorded that in view of simple injuries sustained by the petitioner, the quantum of compensation also cannot be decided. Hence, this appeal.

10. As per Exs.A2 and C1, the petitioner was in hospital from 03-05-1999 to 14-05-1999 and the injuries recorded in Ex.A1 are simple in nature. The involvement of the jeep is not proved. In those circumstances, this appeal fails and is liable to be dismissed.

11. Accordingly, the appeal is dismissed confirming the order, dated 05-04-2005 in O.P.No.421 of 1999 passed by the Tribunal. No order as to costs. Miscellaneous petitions, if any pending in this appeal shall stand closed.

A.RAMALINGESWARA RAO, J

DATED: 22-01-2016

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