

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CMA No.4104 OF 2004

JUDGMENT:

The injured-claimant minor represented by natural guardian father Burra Naraiah in M.V.O.P.No.886 of 2000 on the file of the learned Chairman of the Motor Accidents Claims Tribunal-cum- District Judge, Warangal (*for short, 'Tribunal'*), filed u/s.166 of the Motor Vehicle Act,1988 (*for short, 'the Act'*), for a claim of Rs.75,000/- against the driver, owner and insurer of the crime vehicle motor cycle bearing No.15 H 9284 for causing grievous injury to his upper lip and losing second incisor tooth due to rash and negligent driving of the driver-1st respondent of the claim petition as well as appeal, from the contest by the 3rd respondent-Insurer, for respondents 1 and 2 though filed a formal counter, that there is no rash and negligent driving on the part of the driver of the crime vehicle and not entitled to compensation, answered the claim dismissing saying there is delay of 11 days in reporting occurrence from accident dated 24.03.2000 to the First Information Report Ex.A.1 given on 06.04.2000 which is a collusive outcome from the cross-examination of P.W.1 though no independent evidence adduced by respondents, including with reference to Exs.A.1 to A.6, preferred the present appeal impugning the award with the contentions in the grounds of appeal that the tribunal gravely erred in dismissing the claim instead of allowing from the Ex.A.3 wound certificate itself is very clear of the injured girl was admitted immediately after the accident on the same day as in-patient and was discharged as per Exs.A.6 discharge summery and bill, later on 28.03.2000 and due to illiteracy and not acquainted with the legal affairs, could not report immediately the occurrence till 06.04.2000 and the driver of the crime vehicle R.1 himself admitted the crime and

involvement of the vehicle from which the bills filed and the Ex.A.2 charge sheet not in dispute and thereby sought for allowing the claim as prayed for.

2. Whereas, it is the submission of the learned counsel for the 3rd respondent-Insurer that the award of the tribunal dismissing the claim holds good and for this Court there is nothing to interfere.

3. Perused the material on record. Ex.A.3 wound certificate itself is very clear that the injured girl was admitted on the same day immediately after the accident with no lapse of time as in-patient with No.1555 and was treated as in patient till 28.03.2000. Once the wound certificate is very clear of sustaining injuries with the involvement of the motor cycle of the 2nd respondent driven by the 1st respondent insured with the 3rd respondent and when there is no specific contention in the respective counters of the respondents, the tribunal is not correct in dismissing the claim from mere delay in reporting the occurrence of 11 days holding that the claim is collusive outcome by the petitioner with the respondents 1 and 2. In view of the injury sustained by the claimant which shows loss of one incisor tooth and a lacerated injury to the upper lip, both grievous in nature, this Court feels it is just to award Rs.30,000/- to the petitioner.

4. Accordingly and in the result, the appeal is allowed in part by setting the award of the tribunal by granting compensation of Rs.30,000/- to the claimant/ appellant with interest at 7.5%p.a. from the date of petition till realization. The respondents are directed to deposit the said compensation within one month from today, failing which the claimant can execute and recover. On deposit or by recovery by execution, the claimant is permitted to withdraw the same. There is

no order as to costs. Consequently, pending miscellaneous petitions, if any, in this appeal shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 17.08.2016
Vvr

