

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

MACMAMP No.5553 of 2010

and

M.A.C.M.A.No.283 of 2016

JUDGMENT :

Heard. The delay of 543 days in filing the appeal is condoned as the ground assigned is poverty in filing the appeal, subject to condition of not entitled to interest till date in the event of granting any compensation against the respondents.

2. The appeal is taken up for hearing. Heard the learned counsel for the claimant/appellant and the learned standing counsel for the 2nd respondent. The 1st respondent even served failed to attend. Hence taken as heard. Perused the material on record.

3. The case of the injured claimant is that to attend the Chief Minister's meeting at Tallagudem while he was standing on the road side at Ponnekal, a DCM Van bearing No.AP 37U 6138 of the 1st respondent insured with the 2nd respondent while taking men to that meeting of the Chief Minister and while being driven rash and negligent manner, dashed against him from which he fell down and sustained injuries to right hand. According to him, immediately he went to a nearby private hospital i.e., Hanuman Hospital, Khammam and where he was treated as an inpatient.

4. Ex.A.3 is the hospital wound certificate dated 09.05.2005 shows that the claimant is alleged to have met with road accident at Ponnekal and intimated to the police regarding the occurrence. It is not the case of the injured claimant that the police pursuant to the intimation attended the hospital but for saying from which of the hospitals he reported the occurrence to the police within 13 days after the occurrence as FIR was dated 19.05.2005. The occurrence dated 06.05.2005 was mistakenly mentioned in Ex.A.3 as 08.05.2005 instead of 06.05.2005. The petitioner sustained two injuries – one is fracture to right ulna bone and the other is deep abrasion on right elbow. As per the evidence of the injured claimant and P.W.2 doctor with reference to Exs.A.1 FIR and A.2 charge sheet against the driver

of the crime vehicle of the 1st respondent and Ex.A.3 wound certificate referred supra, the petitioner sustained injuries in the accident due to rash and negligent driving of the driver of the crime vehicle, no doubt, there is delay in reporting the occurrence. There is nothing to show any false implication as the petitioner sustained injuries in the road accident involving the vehicle. From the wound certificate also, immediately after the accident the petitioner joined in a private hospital and there is a mention that the police were intimated of the accident. There is nothing to show that the police registered any crime pursuant to the information for which the injured claimant cannot be deprived as immediately after his discharge as inpatient he went to the police station and reported the occurrence. There is nothing to show false implication. There is no oath against oath against the evidence of P.Ws.1 and 2 from the owner of the vehicle or the insurer, respondents 1 and 2. Once that establishes, the accident resulted in sustaining of injuries involving the crime vehicle of the 1st respondent insured with the 2nd respondent, the petitioner is entitled to the compensation. The Tribunal itself went wrong in dismissing the claim instead of allowing the claim as the petitioner sustained a fracture to right ulna bone and a deep abrasion on right elbow, for which an amount of Rs.22,000/- and Rs.8,000/- for medical expenses and treatment is the just compensation to award.

5. Accordingly and in the result, the appeal is partly allowed by awarding compensation of Rs.30,000/- with interest at 7.5% p.a. only from today till realization. There is no order as to costs.

Consequently, miscellaneous petitions if any pending in the appeal shall stand dismissed.

Dr. B. SIVA SANKARA RAO, J

21st January, 2016

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