

HONOURABLE Dr. JUSTICE B. SIVA SANKARA RAO

M.A.C.M.A.No.357 OF 2010

JUDGMENT:

The injured claimant filed O.P.No.312 of 2007 under Section 166 of the Motor Vehicle Act,1988 (*for short, 'the Act'*) on the file of the learned Chairman of the Motor Accidents Claims Tribunal-cum-II Addl. District Judge, Madanapalle (*for short, 'Tribunal'*), against the owner and Insurer of the car bearing No.TN 07 W 5530 for compensation of Rs.2,00,000/- for the injuries sustained by him in the motor accident dated 15.05.2007. After contest from both sides, the tribunal by its award dated 03.12.2009 dismissed the claim holding that when the case set up by the petitioner is false by implicating the crime vehicle, the question of determination of compensation not only against the Insurer but also owner does not arise being collusive case. Impugning the award of the tribunal, the claimant preferred the appeal with the contentions in the grounds of appeal that the tribunal acted with the material irregularity in exercising the jurisdiction vested in it by law, that the tribunal failed to consider the oral and documentary evidence on behalf of the claimant in proper perspective, that the tribunal ought to have awarded compensation on the count of the fact of the claimant receiving injuries not disputed by the Insurer, that the tribunal failed to see that since the claimant is resident of Tamilnadu State and was admitted in Manipal Hospital, Bangalore, neither himself nor his relatives was able to lodge a complaint to police immediately after the accident and also failed to see that the claimant took treatment for about three months after discharge, hence to set aside the award and grant compensation as prayed for. The learned counsel for the claimant/ appellant reiterated the same during the course of hearing.

2. Heard the learned counsel for the Insurer, from the 1st respondent-owner even served failed to attend taken as heard, that the award of the tribunal holds good and there is nothing to interfere with the award of the tribunal for this Court while sitting in appeal.

3. Heard and perused the material on record.

4. The alleged accident was that on 15.05.2007 at about 1.00 P.M. in the day light at Madanapalli while the injured claimant was proceeding on his TVS Moped, the car belongs to the 1st respondent insured with the 2nd respondent bearing No.T.N.07 W 5530 driven in a rash and negligent manner by its driver, dashed his bike from behind and his left leg was fractured and left hand was also injured and the alleged eye witness Shankar and the driver of the car took him to Sloam Orthopedic and Trauma Centre, Madanapalli. On seeing the x-ray the claimant was advised to go to Bangalore hospital for better treatment and immediately the car driver took the claimant to Bangalore where on the advice of his friend Sadasiva Reddy the claimant was admitted in Manipal Northern side Hospital and after admission the car driver left the injured without intimation on the same day and he was discharged from the hospital as an in-patient No.13186/2007 dated 18.05.07 and taken to his friend's house at Bangalore and therefrom was attended by Doctor K.Sreenivasulu as out-patient who was working in Madanapalle hospital Bangalore and the claimant was at bed rest for three months and on the advice of doctor after three months, he came to Madanapalle and thereafter he gave report to police, Mandanapalli. According to his own version, one Shankar was an eye witness to the accident that too in the broad day light. Even he claims Shankar and the so called car driver admitted him in Sloam Orthopedic and Trauma Centre, Madanapalli, and on the advice of his friend Sada Siva Reddy taken to Manipal hospital

Bangalore. Had there been any little truth of sustaining of accidental injuries and there is an eye witness, a friend of him, and if not even allegedly taken him and joined in Bangalore for not his case of said eye witness was throughout of his in-patient treatment not served, it is hardly believable of nobody chosen to report to police including the so called Sloam Orthopedic and Trauma Centre, Madanapalli, authorities of Madanapalle who are dutybound to give intimation to police for medico-legal case, had it been disclosed of sustaining road accident injuries involving the car. The alleged explanation for more than three and half months to the accident for giving of report since hardly believable and it is the contest of false implication and no private hospital record much less any x-ray of the Sloam Orthopedic and Trauma Centre, Madanapalli, and the O.P.ticket issued by Manipal hospital, Madanapalli under Ex.A.4 cannot assure any credence in the absence of producing original record and unless admitted as in-patient, the question of taking X-rays and giving advice for better treatment on seeing the x-ray does not arise and it is not even a case of the injured that he was admitted in a private hospital as in-patient much less by production of record for the conclusion arrived by the tribunal, there is nothing to interfere.

5. In the result, the appeal is dismissed. There is no order as to costs. Pending miscellaneous petitions, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date:26-12-2016
VVR