

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

MACMA No.481 of 2013

Date:09.03.2016

Between:

Sri Shaik Mastan

... Appellant.

AND

The United India Insurance Co., Ltd.,
Rep by its Divisional Manager,
P.N.No.222, 4/7, Brodipeta,
D.No.5-37-197/1,
Nagarjuna Complex, Guntur,
Guntur District.

...Respondent.

The Court made the following :

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

MACMA No.481 of 2013

JUDGMENT:

This appeal is preferred questioning award dated 01-09-2006 in O.P.No.153/2003 on the file of Motor Accidents Claims Tribunal-cum-V Additional District Judge (Fast Tract Court), West Godavari, Eluru.

2. Appellant herein is claimant and he preferred the above O.P., claiming a sum of Rs.1,00,000/- towards compensation for the injuries sustained by him in a motor accident that took place on 09-05-2002, at about 02:15 P.M., at Excise Office, Ashok Nagar, Eluru.

The claim was resisted by the Insurance Company and the Tribunal conducted enquiry during which, the claimant himself was examined as P.W.1 besides examining medical officer as P.W.2 and got marked Exs.A1 to A5.

On behalf of insurance company, no witnesses were examined, but Insurance Policy was marked as Ex.B1 and on a over all consideration of oral and documentary evidence, Tribunal granted compensation of Rs.10,500/- for the injuries sustained by him by giving Rs.5,000/- as general damages for pain and suffering, remaining amount of Rs.5,000/- towards loss of earning and Rs.500/- towards transport to the hospital. Aggrieved by the same, claimant preferred this appeal.

3. Heard arguments.

4. Advocate for appellant submitted that the lower Tribunal erred in not granting compensation under the head of medical expenses and also erred in not considering the injuries sustained by the appellant while granting compensation.

He submitted that as per medical evidence, the petitioner sustained one grievous injury and two simple injuries, but only Rs.10,500/- was granted, which is meager and not proportionate to the injuries sustained by the appellant.

5. On the other hand, Advocate for Insurance Company submitted that the appellant has not produced any medical bills and not produced any ex-rays to show that he sustained grievous injury to corroborate the version of medical officer.

He further submitted that as the claimant failed to place appropriate evidence in support of the medical expenses and the nature of the injuries, the Tribunal rightly not granted compensation towards medical expenses and that there are no grounds to interfere.

6. I have perused the material papers including the impugned order 01-09-2006. Though, the appellant contended that he is entitled for medical expenses, not even a single document is failed to show that he incurred expenses. The Court below, while recording the same, held that no amount can be granted towards medical expenses in the absence of evidence. I do not find any wrong in the findings of the Claims Tribunal, because the petitioner has not offered any explanation as to why the ex-rays, medical bills and other documents concerning the treatment are not filed. The Medical Officer only on the basis of wound certificate deposed that one injury is grievous and two injuries are simple in nature, but by perusing wound certificate, nature and gravity of the injury can not be decided. Nature of injury No.2 recorded in the wound certificate was only on the basis of ex-rays and report of the radiologist, but the appellant neither filed those documents nor examined the radiologist and no convincing explanation is offered from the appellant for not producing such documents, which are very relevant and necessary to decide the nature of injuries. As rightly pointed out by the Advocate for Insurance Company, there is nothing to be interfered with the findings of the Tribunal as the appellant failed to show that he sustained multiple fractures to his leg as pleaded and contended in the claim petition.

7. For these reasons, I am of the view that there are no grounds to interfere with the award of the Motor Accidents Claims Tribunal and the appeal is liable to be dismissed as devoid of merits.

8. Accordingly, appeal is dismissed as devoid of merits.
No costs.

9. As a sequel, miscellaneous petitions, if any, pending in this appeal, shall stand dismissed.

JUSTICE S. RAVI KUMAR

Date:09.03.2016

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