

SMT JUSTICE T. RAJANI

MACMA.No.2096 of 2006

JUDGMENT:

This appeal is preferred by the appellant, who is the claimant before the Court below, assailing the order of the IV Additional District and Sessions Judge, Ranga Reddy District in OP.No.414 of 2002 dated 29.05.2006 on the grounds that the Court below disbelieved the evidence of the appellant and that of the doctor, who treated the appellant in a private hospital for the injuries sustained by the appellant; the Court below failed to appreciate and consider that the evidence and the document, marked as Ex.B4 by the respondents, does not pertain to the appellant and that the said records shows that one Pettala Suresh S/o. Pandu was the person injured, who was treated on 28.03.2002 in Cr.No.28 of 2002 registered for the offence under Section 324 of the Indian Penal Code. The Court below ought to have rejected the documentary evidence of the respondents, as the police have mistakenly filed the report Ex.B4 and it erred in taking adverse inference for not producing the record of Osmania General Hospital when the appellant has not taken treatment or admitted in the said hospital

2. Heard both the counsel.

3. At the hearing, counsel for the appellant contends that the final report, which is marked through P.W.1 as Ex.A2, is a false final report, though it is a document brought before the Court by him. Let this Court accept that for a moment and look at the report. The report with

regard to the accident dated 07.04.2012 was given by one Mr. A. Srinivasulu. In the said complaint, it is clearly mentioned that the driver of the Tata Sumo sustained injuries to the head while the passengers traveling in the said vehicle i.e. one Chandra Shekar and J. Suresh i.e. claimant in this case, sustained minor injuries and that they took the driver to the hospital. The final report, Ex.A2, shows that Julury Suresh was examined as L.W.3 and three doctors from the Osmania General Hospital were examined as L.Ws.6, 7 and 8 and it is categorically mentioned that L.W.6 treated L.W.3. Counsel for the appellant persuades this Court to accept his contention that the medical record, which is filed by the respondents, pertaining to one Suresh, which is dated 28.03.2002, is not that of the claimant in this case and it pertains to another Suresh who is son Pandu.

4. The respondents examined three witnesses viz. R.W.1, Administrative Officer of the insurance company, whose evidence may not be material; R.W.2 is the Investigator of the insurance company and R.W.3 is the Head Constable of P.S. Maheshwaram, who was summoned to the Court below along with the Court record in Cr.No.28 of 2002. The investigator, who was appointed by the insurance company, states that, as per the case record, the accident occurred on 07.04.2002 but as per the Medico Legal Record, the said Suresh was treated on 28.03.2002. Though the name of one Suresh is not found in Ex.B4, in the cross-examination, his evidence is rendered untrustworthy by virtue an elicited fact, that as per Ex.B4 the patient Suresh is S/o. Pandu. Even the place of residence is noted as Imamguda whereas the claimant hails from Charakonda.

Hence, Ex.B4 cannot be considered as having any nexus with this claimant. R.W.3, in the chief-examination, stated that when the injuries are simple in nature, a charge sheet will be filed for the offence under Section 377 IPC. He states the same with regard to Ex.B4 as pertaining to one Suresh S/o. Pandu. Hence, Ex.B4 fades away from the area of consideration.

5. Even if the entire evidence adduced by the respondents is kept aside and discredited, the burden still remains on the claimant to prove that he sustained injuries, in this accident, as spoken to by P.W.2. But, unfortunately, the evidence adduced by the claimant is inherently inconsistent and the documents, relied on and marked through claimant, are absolutely inconsistent with other documents filed by him to prove the injuries sustained by him in the accident. A perusal of the medical evidence too brings out an element of doubt, as in Ex.A3, the date of admission stands corrected from 10.05.2002 to 07.04.2002 and the patient name is mentioned as Suresh and no other particulars are mentioned. In Ex.A4 there is a correction with regard to the surname of Suresh. This Court does not see any reason to discredit the evidence of P.W.2. But even if we accept that the medical record pertains to J. Suresh, it cannot be relied upon, as, as already observed it is inconsistent with the evidence let in by the claimant himself. The statement of Chandrashekar, marked along with Ex.B1, is clear that himself and Juluri Suresh sustained only simple injuries. The said statement becomes formidable to the claimant and takes him under a burden of proving that simple injuries turned out to be grievous injuries and fractures. Hence, when the evidence is so

clumsy and even at the stage of appeal when the claimant is not successful in dispelling the doubts that were entertained by the Court, nothing can be done in this appeal.

With the above observations, the civil miscellaneous appeal is dismissed. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

July 7, 2017
DSK

T. RAJANI, J

