

THE HON'BLE MS. JUSTICE J. UMA DEVI

MACMA NO. 1435 OF 2009

ORDER:

Having been aggrieved by the order of dismissal, dated 29.2.2008 passed in O.P.No. 1416 of 2006 by the Chairman, Motor Accident Claims Tribunal-cum-IV-Addl. District Judge, Warangal, the present appeal is filed by the claimant in the abovementioned OP.

The main contention of the appellant/claimant is that though voluminous evidence is available in the case record for establishing the involvement of motor cycle bearing No. AP 20 M 2198, such as F.I.R, his oral testimony and other material, the Tribunal has come to an erroneous conclusion that the involvement of the abovementioned motor cycle in the accident, dated 3.5.2006 has not been established only because of the reason that copy of charge sheet is not produced. Learned counsel for the appellant/claimant, while making his submissions, has brought to the notice of the Court that on thorough investigation of the case, based on the evidence collected, the police have laid a charge sheet against the rider of the motor cycle bearing No. AP 20 M 2198. He further submits that he has made an application for obtaining copy of the charge sheet which clinches the main issue involved in the present case and therefore, an opportunity needs to be given to the appellant/claimant to approach the Tribunal for producing copy of charge sheet and other relevant evidence which clinches the main issue involved in this case.

Learned Standing Counsel for respondent/insurance company has fairly conceded that on thorough investigation of the case filed against the driver of the motor cycle, a case in Cr.No. 81 of 2006 was registered. He also stated that copy of insurance policy of the motor cycle involved in the present case is also to be produced for establishing the case of the respondent/insurance.

Considering the above submissions made by the learned counsel of both sides, this Court is of the view that it is a fit case which can be remanded to the Tribunal to decide the issues afresh after taking into consideration of the oral and documentary evidence which both the parties intend to adduce for establishing their respective contentions. The parties are given liberty to adduce further oral and documentary evidence before the Tribunal.

In the result, this appeal is allowed, the order of the Tribunal is set aside and the matter is remanded to the Tribunal for fresh disposal in accordance with law, in the light of the observations made above. The Tribunal is directed to dispose of the case as early as possible, preferably within six months from the date of receipt of a copy of this order.

As a sequel to disposal of main appeal, miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

JUSTICE J. UMA DEVI

Dt. 16.6.2017
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