

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A. No. 1707 OF 2005

JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act'), by the petitioner in O.P. No.434 of 1997 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-IV Additional District Judge (Fast Track Court), Nizamabad (for short, 'the Tribunal'), aggrieved by the dismissal order dated 16.03.2005 passed by the Tribunal in the said O.P. filed under Section 166 of the Act claiming Rs.2,00,000/- as compensation for the injuries sustained by him in a motor accident occurred on 07.03.1996.

2. Heard both the learned counsel for the appellant-petitioner and the learned Standing Counsel for respondent No.2, apart from perusing the material available on record. Notice sent to respondent No.1-owner of the accident vehicle returned un-served.

3. Sri Kowturi Vinay Kumar, learned counsel for the appellant-petitioner, would submit that on 07.03.1996, the appellant was going on scooter, when reached Kamarpally Bus Station, a jeep bearing No.AP 7T 2796 driven by its driver in a rash and negligent manner at high speed dashed the petitioner, as a result of which, the appellant suffered grievous and simple injuries, he was hospitalised and he spent Rs.70,000/- for treatment; he claimed compensation of Rs.2,00,000/- from respondent Nos.1 and 2, who are the owner and insurer of the accident vehicle; the appellant-petitioner lodged a report with the police about occurrence of the accident and the police registered the same as a case in Crime No.18 of 1996 of Kammarapally Police Station against the driver of the jeep; the

Tribunal dismissed the claim petition, disbelieving the occurrence of accident and the petitioner suffering injuries due to the use of the jeep bearing No.AP 7T 2796; the findings of the Tribunal are contrary to law and facts of the case; though there is ample evidence on record, the Tribunal failed to appreciate the evidence properly and dismissed the appeal; and ultimately, prayed to allow the appeal and grant compensation to the appellant-petitioner as claimed.

4. On the other hand, Sri P. Bhanu Prakash, learned Standing Counsel appearing on behalf of respondent No.2, would submit that the petitioner alleged that the accident occurred on 07.03.1996 and the report was lodged with the police on 09.04.1996 with a delay of 34 days; in the medical certificates filed by the petitioner, there is no mention of the petitioner suffering injuries in a road accident; there is an unexplained delay in lodging a report with the police; the driver of the jeep was prosecuted for the offence under Section 134(b) r/w 187 of the Act; there is no iota of evidence to believe that the petitioner suffered injuries due to the use of the jeep; the Tribunal rightly appreciated the entire evidence on record and dismissed the claim petition; there is nothing to take a different; and ultimately, prayed to dismiss the appeal.

5. In view of the contentions putforth by both sides, the following points have come up for consideration:

(1) Whether the appellant-petitioner suffered injuries in the accident occurred due to the rash and negligent driving of the driver of the jeep bearing No.AP 7T 2796?

(2) Whether the appellant-petitioner is entitled for compensation of Rs.2,00,000/-?

6. **POINTS:** To substantiate the case, the appellant-petitioner deposed as P.W.1 and also examined the doctor as P.W.2 and got marked documents Ex.A.1-medical certificate, Ex.A.2-certified copy of F.I.R., Ex.A.3-certified copy of charge sheet, Ex.A.4-certified copy of wound certificate, Ex.A.5-final docket order in STC No.73 of 1996 on the file of Judicial Magistrate of First Class, Armoor, Ex.A.6-discharge bill and Ex.A.7-original disability certificate and Ex.C.1-X-ray. No evidence was adduced on behalf of respondent No.2-insurer. The burden is on the appellant-petitioner to prove the injuries suffered by him due to use of jeep, except self-serving statement of P.W.1. There is no other ocular evidence, further in the medical record submitted by the appellant, there is no mention that the appellant suffered injuries in the road accident. P.W.2's evidence is only to the effect that the appellant sought treatment in his hospital. The entire medical record is only to that effect. As per Ex.A.3-certified copy of charge sheet, the driver of the jeep was prosecuted for the offence under Section 134(b) r/w 187 of the Act. Had the appellant suffered injuries as contended by him, it could have found in Ex.A.3-charge sheet, the delay of 34 days in lodging a report with the police is also not explained by the appellant. P.W.2-doctor also did not inform to the police concerned about the alleged medico legal case. The doctor did not produce any register required to be maintained for that purpose. There is no legally acceptable evidence to believe that the appellant suffered injuries due to rash and negligent driving of the driver of the jeep bearing No.AP 7T 2796. As there is no record to show that the appellant took treatment for the injuries sustained in the road accident, he is not entitled for any compensation against the respondents herein, who are the owner

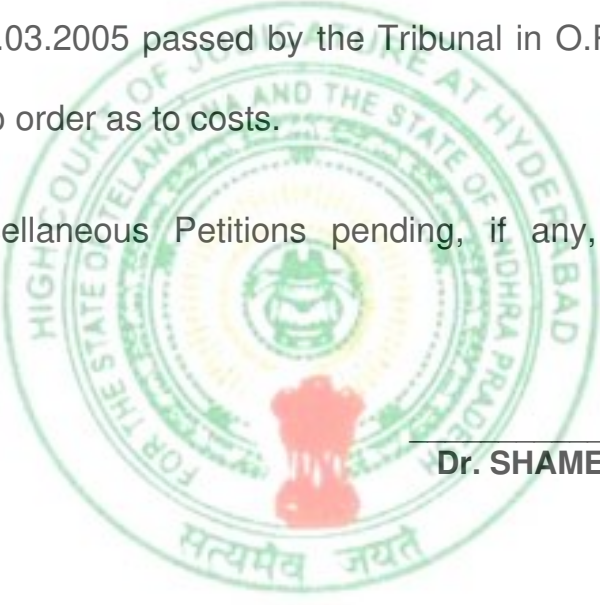
and insurer of the jeep. The Tribunal having analysed the entire ocular and documentary evidence, did not believe that the accident occurred as contended by the appellant-petitioner and the appellant suffering injuries in that accident. Under these circumstances, there is nothing to take a different view. All contentions raised on behalf of the appellant-petitioner do not merit consideration. The findings of the Tribunal are based on evidence and record. Therefore, the appeal is liable to be dismissed. Both the points are answered accordingly.

7. In the result, this appeal is dismissed confirming the order and decree dated 16.03.2005 passed by the Tribunal in O.P. No.434 of 1997. There shall be no order as to costs.

8. Miscellaneous Petitions pending, if any, shall also stand dismissed.

Date: 20.10.2017

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Dr. SHAMEEM AKTHER, J