

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

CIVIL MISCELLANEOUS APPEAL No.2945 of 2004

JUDGMENT:

Heard Sri S.Surender Reddy, learned counsel for the appellant - petitioner, and Sri C.Prakash Reddy, learned Standing Counsel for respondent No.3.

The petitioner, who sustained injuries in a road accident, laid a claim petition under Section 166 (1) (a) of the Motor Vehicles Act, 1988 in O.P.No.864 of 1999 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-I Additional District Judge, Adilabad (for short, 'the Tribunal'), against the respondents, who are the driver, owner and insurer, respectively, for awarding compensation of Rs.2,50,000/- with interest at 18% per annum.

Before the Tribunal, the claim petition was dismissed for default against respondent No.1. Respondent No.2 remained *ex parte*. Respondent No.3 – insurer resisted the claim by filing a detailed counter. The Tribunal framed three issues. During enquiry, the petitioner examined himself as P.W.1 and marked Exs.A1 to A7. On behalf of the respondents, none were examined.

By order dated 25.06.2004, the Tribunal, having analysed the evidence on record, dismissed the O.P in its entirety referring to various grounds in paragraph '7' to '11'. Aggrieved thereby, the present appeal is preferred by the petitioner seeking grant of compensation.

The order under challenge shows that the delay of a week in lodging the complaint was also taken note of by the Tribunal and viewed it as one of the grounds for dismissal. This apart, in paragraph '10', the Tribunal has specifically mentioned that Ex.A4 - true copy of the registration certificate book shows the owner of the tractor and trailer bearing Nos. AP 21 U 1641 and 1642 as Smt. S.Shashikala, who is not a party to the claim petition. It appears, respondent No.2 – G.Ramakrishnudu, son of G.Yaganti, who effected transfer of ownership of the tractor and trailer in favour of Smt. S.Shashikala, is shown as the owner of the tractor. The petitioner, having filed Ex.A4, had not taken steps to add Smt. S.Shashikala as owner of the tractor, as the registration certificate shows her as the owner of the vehicle. Of course, it is not clear whether on the date of the accident, the tractor was sold away in favour of Smt. S.Shashikala and entry to that effect was made in the registration certificate. Be that as it may, it is a case where the matter requires to be remitted to the Tribunal with a view to afford an opportunity to the petitioner to add Smt. S.Shashikala as the owner. It is left open to the petitioner to strike out the name of respondent No.2, who is shown as owner. The Tribunal shall also afford an opportunity to the respondents to lead their evidence by inviting their defence, if any, and dispose of the matter afresh in accordance with law.

The Civil Miscellaneous Appeal is, accordingly, allowed setting aside the order under challenge and remanding the matter to the Tribunal for disposal of the matter afresh as stated above. Since the claim petition relates to the year 1999, the Tribunal is directed to dispose of the O.P

within six (6) months from the date of receipt of a copy of this order, affording opportunity to both sides for taking necessary pleadings and to lead further evidence respectively.

Miscellaneous applications, if any pending in the present appeal, shall stand closed. No order as to costs.

JUSTICE A.SHANKAR NARAYANA

05.09.2017

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