

THE HON'BLE SMT JUSTICE T.RAJANI

M.A.C.M.A. No.78 OF 2008

JUDGMENT:

This appeal is preferred by the appellant, who is the petitioner in the lower Court, aggrieved by the Judgment, dated 09.07.2007, passed in O.P.No.103 of 2003 by the Court of the Motor Accidents Claims Tribunal (V Additional District Judge) (Fast Track Court) at Nizamabad, whereby the learned District Judge dismissed the petition. The Tribunal did not believe the accident and also did not believe the evidence of P.W.2 on the ground that the Hon'ble High Court of Andhra Pradesh in C.M.A.No.3518 of 2004 passed strictures against the said Doctor observing that he is habituated to give false evidence and dismissed the claim totally.

This Court, by perusing the F.I.R., and contents of the report, is of the view that the delay in giving the report stands explained. The complainant mentioned in the complaint that the injured does not have any other legal heirs and that when the complainant came to Hyderabad on his personal work, he came to know about the accident and then he attended the injured. Hence, the above would explain the delay in filing the report, as obviously there are no heirs who could have taken interest in filing the report on behalf of the injured. The appellant herself got examined as P.W.1 before the trial Court and spoke about the manner of accident, according to which, on 01.05.2002 at about 12.00 Noon, she was proceeding from Mamidipally village to Armoor for essential commodities and when she reached in front of Raja Ramesh Talkies of Armoor, one auto bearing No.AP 25 U 2068 came in a rash and negligent manner in high speed and driver lost the control over the auto and dashed against the appellant. The cross-examination of P.W.1 does not elicit any contrary fact, which would belie her evidence regarding the manner of accident, except that there was a suggestion that the accident did not occur

involving crime auto. But the involvement of the crime auto is evidenced by the charge sheet, which is filed after due investigation. Hence, this Court opines that the said auto is involved in the accident and that the appellant sustained injuries in the said accident.

With regard to the award of compensation, reliance is placed on Ex.A.3, Medical Certificate, which is said to have been executed by P.W.2. Apart from Ex.A.3, Ex.A.4 is also filed, which pertains to the same hospital. The medical certificate can be appreciated in the background of the contents of the complaint, which shows that the appellant sustained injuries in the accident. Hence, the certificate and evidence of P.W.2 cannot be termed as complete invention. Unless PW2 is disqualified from practicing, patients would be coming to him and he would be giving treatment. There may be genuine cases among the cases taken up by him. Simply because he is proved to be untrustworthy in some cases, the victims who go to him genuinely cannot be deprived of their entitled benefits. The certificates show that there are fractures to both bones of left leg and fracture to left wrist. Hence, considering the nature of the injuries, Rs.20,000/- (Rupees twenty thousand only) is awarded towards pain and suffering. The appellant did not file any medical bills, but however, it can be assumed that she might have incurred some medical and incidental expenses, towards which, Rs.5,000/- (Rupees five thousand only) is awarded. The appellant, according to her evidence, was working as an agricultural labourer and as such, the income of the appellant can be taken as Rs.3,000/- (Rupees three thousand only) per month and the nature of injuries would suggest that she was unable to attend her work at least for a period of two months and as such, Rs.6,000/- (Rupees six thousand only) is awarded under the head 'loss of income' during the period of treatment and rest. Thus, total amount of Rs.31,000/- (Rupees thirty one thousand only) is awarded to the appellant.

In the result, the appeal is partly allowed and the Judgment of the lower Court is set aside and an amount of Rs.31,000/- (Rupees thirty one thousand only) is granted to the appellant towards compensation. The appellant shall also be entitled for costs and interest on the compensation amount @7.5 p.a., from the date of the petition till the date of realization

Consequently, miscellaneous petitions, pending if any, in the appeal, shall stand disposed of.

JUSTICE T.RAJANI

23.02.2017
pln

