

SMT JUSTICE T. RAJANI

MACMA.No.435 of 2006

JUDGMENT:

This appeal is preferred by the appellant, who is the claimant before the Court below, assailing the judgment of the II Additional District Judge, Nizamabad in OP.No.763 of 2001 dated 31.03.2005 by virtue of which the Court below dismissed the claim petition.

2. The grounds on which this appeal is preferred are that the Court below ought to have seen that the appellant sustained disability to the extent of 30% and that it erred in coming to the conclusion that the doctor, who issued the disability certificate, is not competent to issue the same, as he was not a member of the committee constituted to issue the disability certificates. The Court below erred in dismissing the claim petition in spite of there being no evidence adduced on behalf of the second respondent.

3. Heard both the counsel.

4. A perusal of the record brings out a glaring inconsistency. The same was noticed by the Court below, on the basis of which, it disbelieved the evidence of one Dr. T. Narsing Rao, who was examined as P.W.2. The record shows that the claimant was treated by one Dr. R. Bhoopathi Reddy. The claimant filed X-ray report in order to prove the fracture to his left collar bone. The X-ray report was dated 18.11.1999. The record discloses that the claimant was hospitalized in Government hospital, Nizamabad from 12.11.1999 to 23.11.1999. The observation of the Court below is that the X-ray film was taken on the reference made by Dr. R. Bhoopathi

Reddy, who is, in fact, the doctor, who treated the claimant, after his discharge from the Government Hospital, Nizamabad. The Court below rightly appreciated the inconsistency between the date of the X-ray film on the one hand and the period of treatment taken by the claimant in Government Hospital, Nizamabad and observed that while the treatment period is from 12.11.1999 to 23.11.1999 in Government Hospital, there cannot be any reason for, the claimant to approach Dr. R. Bhoopathi Reddy and the said doctor to refer him for X-ray. The above serious cloud that is cast on the case of the claimant stands unshattered even at the stage of the appeal and thereby, the entire case of the claimant is rendered doubtful.

Hence, in view of the above, this Court cannot interfere with the judgment of the Court below and the same is confirmed. The appeal is dismissed. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

July 14, 2017
DSK

T. RAJANI, J

