

THE HON'BLE MS. JUSTICE J. UMA DEVI

MACMA NO.541 OF 2007

JUDGMENT:

Having been aggrieved by the order passed by the Motor Accidents Claims Tribunal-cum-VII-Addl. District Court, at Kakinada dismissing the claim made in OP No. 467 of 2003, the claimant in the aforementioned OP has come up with this appeal.

The claimant in the aforementioned OP has laid the claim as against the insurance company and others for compensation of Rs.50,000/- in respect of the injuries received by her in the accident dated 16.7.2002. It is contended by the claimant that on 16.7.2002 she boarded a city bus bearing No. AP 5Y 677 near Chollangi Bridge to go to her village. While the aforementioned bus was proceeding towards her village, a lorry bearing No. AP 31 T 1617 came opposite to it in high speed and in a rash and negligent manner and gave hit to the bus in which she was traveling as a passenger. In the aforementioned accident she sustained injuries and the passengers traveling along with her in the bus also sustained injuries. Immediately after the accident, she was taken to the Government General Hospital, Kakinada for treatment.

The case was not contested by respondents 1, 2, 4 and 5. Respondents 3 and 6 i.e., insurance companies of lorry and the city bus alone contested the case disputing the assertions made by the claimant regarding the manner of the accident and also their liability to pay the compensation etc.

The Tribunal, on appreciation of the oral and documentary evidence available in the case record, i.e., Ex.A1-attested copy of First Information Report and other documents produced by the insurance company, came to the conclusion that the claimant could not be able to establish that she sustained injuries in the abovementioned accident and accordingly disallowed her claim made as against the insurance company and other respondents.

Feeling aggrieved by the order passed by the Tribunal disallowing her claim made in OP No. 467 of 2003, she came before this Court with the present appeal.

Her main contention is that though the evidence available in the case record especially Ex.A1-FIR establishes the fact that the accident in question occurred due to the negligence on the part of the lorry bearing No. AP 31 T 1617 belonging to 1st respondent by its driver and that she sustained injuries in the abovementioned accident, the Tribunal wrongly dismissed her claim petition. This is the main contention urged by the appellant-claimant to crave the indulgence of this Court.

The appellant-claimant to substantiate her contentions raised before the Tribunal, examined herself as P.W.1 and marked Ex.A1-copy of FIR in Cr.No. 66 of 2002 dated 16.7.2002. The Tribunal, on thorough examination of contents of Ex.A1, came to the conclusion that though the appellant-claimant could be able to establish that the accident dated 16.7.2002 occurred due to the negligent driving of the lorry bearing No. AP 31 T 1617 by its driver, she could not be able to establish that she received injuries in the aforementioned accident.

The main contention of the respondent No.6-insurance company is that the appellant-claimant failed to establish that she sustained injuries in the abovementioned accident. The claimant has not produced the wound certificate to establish that she sustained injuries in the aforementioned accident. She has also not produced any document to establish her contention that she was in hospital for 15 days and that a sum of Rs.8,000/- was incurred by her towards medical expenditure. Due to non-establishment of the assertions she made in respect of her involvement in the accident and receiving of injuries in the abovementioned accident and the treatment, if any, taken by her in the hospital for a period of 15 days and incurring of medical expenditure of Rs.8,000/-, the Tribunal had rightly held that she is not entitled to get any compensation and that the claim raised by her as against the insurance company and other respondents deserves to be dismissed. This Court finds no patent irregularity in the order passed by the Tribunal dismissing the claim made by the appellant-claimant in OP as against the insurance company and other respondents. The appeal filed by the claimant questioning the order passed by the Tribunal in OP No. 467 of 2003 dated 9.1.2007 deserves to be dismissed for the reasons mentioned above.

In the result, the appeal is dismissed. Miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

JUSTICE J. UMA DEVI

Dt.15.9.2017
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