

SMT JUSTICE T. RAJANI

MACMA.No.424 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.488 of 1999 dated 30.05.2005 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 did not see that the appellant sustained 40% disability and erred in dismissing the claim. The Court below ought to have seen that the evidence of the claimant remained unchallenged. The Court below ought to have granted Rs.1,00,000/- instead of dismissing the petition.

3. Heard both the counsel. Perused the record.

4. The claimant, allegedly, sustained an injury to his head, which is stated to be grievous in nature. The Court below, by considering that the doctor, who treated the claimant was not examined, did not believe the evidence of P.W.2, who was examined to speak about the disability sustained by the claimant. The medical certificate, which is marked as Ex.A3, surfaces a glaring inconsistency with regard to the name of the doctor. In the column meant for writing the name of the doctor, it is written as Dr. B. Madhushekar but on the certificate, the signature is by one Badhushekar. The charge sheet also shows the name of the doctor as Dr. B. Madhushekar. The ambiguity that is created by Ex.A3 stands unexplained. Unless the doctor, who signed the said certificate, comes before the Court and clears the said

ambiguity, there is nothing that can be gathered from the said certificate. The certificate nevertheless shows that the claimant was hospitalized from 02.04.1999 to 28.04.1999. But even for that, unless the doctor, who treated the claimant, explains as to the nature of the injury, there can be no conclusion drawn by the Court by itself. Hence, in the light of the above ambiguity, the claim made by the claimant under the said head also cannot be sustained. This Court does not find any help from any corner. The counsel is not able to explain the ambiguity. Hence, in the above circumstances, except confirming the judgment of the Court below no other benefit can be granted to the claimant.

With the above observations, 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