

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

MACMA No.542 of 2006

JUDGMENT

Though the matter underwent several adjournments under the caption 'For Dismissal' none appears for appellant/claim petitioner. On 27.01.2017, when the matter came up for hearing, none appears for appellant and adjourned the matter to today under the caption 'For orders'. Even today also, there is no representation on behalf of appellant. Learned Standing Counsel for 3rd respondent-insurance company is present. Therefore, it appears that the appellant has no interest in prosecuting the matter.

2. Learned standing counsel for 3rd respondent contended that as per petition averments, the petitioner was treated in Government Hospital for one month, but P.W.3 stated in his evidence that the petitioner took treatment in his hospital from 22.08.1999 to 15.09.1999 and that Ex.A3-wound certificate is also not genuine one and therefore, the Tribunal dismissed the claim of petitioner and there is no need to interfere with the impugned order by this Court.

3. While going into the merits of the matter, as seen from the order impugned, the Tribunal observed that as per averments in the petition, petitioner/P.W.1 stated that immediately after the accident, he took treatment in Government Hospital, Palasa, for one month and later, in private hospital, Kasibugga, and incurred an expense of Rs.15,000/-, whereas P.W.3 deposed that the petitioner took treatment in his hospital from 22.08.1999, i.e, on the date of accident

itself, to 15.09.1999 and he issued Ex.A15-cash bill for Rs.42,400/- towards treatment including the surgery, but no X-ray reports are filed in order to prove the case of the appellant. Though the occurrence of accident was proved, in view of the contradictory oral and documentary evidence placed on record by the appellant, the Tribunal rejected his claim. The record placed before this Court reveals that the evidence of P.Ws.1 and 2 is inconsistent, so also the material documents. The Tribunal had in detail analyzed the evidence placed on record by both parties. The findings of the Tribunal are based on record. Though strict proof is not required, the appellant has not made out a case for grant of any compensation. Therefore, this Court is not inclined to interfere with the impugned order.

4. In view of the above, the appeal is dismissed. No order as to costs. Miscellaneous applications, if any, pending in this appeal shall stand dismissed.

10th February, 2017
sj

Dr. SHAMEEM AKTHER, J