

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

M.A.C.M.A.No.2226 OF 2005

JUDGMENT:

Heard and perused the material available before the Court.

2. In the present M.A.C.M.A., challenge is to the award, dated 03.12.2004, passed by the Chairman, Motor Accident Claims Tribunal – cum – II Additional District Judge, Warangal in M.V.O.P.No.615 of 2001 filed under Section 166 of the Motor Vehicles Act, 1988 read with Rule 476 of the A.P. Motor Vehicles Rules, 1989.

3. According to the claimant/appellant, because of the rash and negligent driving of respondent No.3/owner of the vehicle i.e., Bajaj Chetak Scooter bearing No.AP-36C/5553, he sustained injuries. Before the Tribunal, claimant/appellant herein claimed a sum of Rs.75,000/-. Respondent Nos.2 and 3 contested the said O.P.No.615/2001 and filed written statements denying the allegations in the petition.

4. On the basis of the pleadings available on record, the Tribunal framed the following points for consideration:

“i. Whether the accident took place due to rash and negligent driving of the Bajaj Chetak Scooter bearing No.AP 36C 5553 – 1995 Model by its driver?

ii. Whether the petitioner is entitled for compensation, if so, what amount and from whom?

iii. To what relief?”

5. During the course of trial, the claimant/appellant herein examined himself as P.W.1 and also examined one Sri M.Sailu as

P.W.2 and marked Exs.A-1 to A-13 and on behalf of the respondents, R.W.1 was examined and Exs.B-1 and B-2 were marked.

6. The alleged accident took place on 26.05.2000 when the claimant was proceeding on a bicycle along with one Mr.E.Srinu. The Tribunal noted the admission of the claimant during the course of cross examination that he saw only one scooter at the time of accident. The Tribunal also took into consideration the non-examination of Sri Pilli Ravinder, *de facto* complainant, and one Mr. E.Srinu, who according to the claimant, witnessed the accident, and also observed that non-examination of the said individuals would be fatal to the case of the claimant. It is also required to be noted that the legal representatives of late Sri Pilli Kumara Swamy, who was with respondent No.3 as a pillion driver and lost his life, filed M.V.O.P.No.634 of 2000, claiming compensation of Rs.7,50,000/- against respondent Nos.1 to 3 herein. The said O.P. was disposed of on 05.11.2003 and the Court found that the accident did not take place due to the rash and negligent driving of the scooterist i.e., respondent No.3 herein. The learned Judge also took note of the principles laid down in various judgments of the Hon'ble Apex Court with regard to the element of rash and negligent driving and eventually, dismissed the M.V.O.P. In the present appeal, no infirmities could be pointed out by the claimant/appellant, which warrants interference of this Court under Section 173 of the Motor Vehicles Act, 1988.

7. Accordingly, the M.A.C.M.A. is dismissed. There shall be no order as to costs.

8. Miscellaneous petitions pending, if any, in this appeal shall stand closed.

JUSTICE A.V.SESHA SAI

Date : 20.11.2017
AMD



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