

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A. No.1693 of 2005

JUDGMENT:

This Appeal, under Section 173 of the Motor Vehicles Act, 1988 ('the Act', for brevity), is filed by the appellant-petitioner (claimant), aggrieved by the order, dated 22.02.2005, passed in O.P.No.1560 of 2002 by the Chairman, Motor Accidents Claims Tribunal-cum-IV Additional District Judge (FTC), Nizamabad ('the Tribunal', for brevity).

2. Heard the learned counsel for the appellant-claimant. There is no representation for the 1st respondent-owner of the crime vehicle and the 2nd respondent-insurance company.

3. Learned counsel for the appellant-claimant would submit that the Tribunal dismissed the claim petition of the appellant though the appellant suffered injuries in a motor accident which occurred on 25.08.2002 due to the use of Tata Sumo Jeep bearing registration No.AP 25 F 888. The appellant himself examined as P.W.1 and also got marked Exs.A.1 to A.6. The appellant had also examined P.W.2 – Dr. G. Jaya Prakash, who treated him for the injuries sustained by him in the accident. The appellant filed the claim petition claiming a total compensation of Rs.2,00,000/-. The Tribunal did not grant any compensation, which is erroneous, contrary to law and facts and ultimately prayed to grant compensation of Rs.2,00,000/-.

4. In view of the contentions put forth by the learned counsel for the appellant, the point for determination is whether the appellant is entitled for any compensation?

5. POINT: To substantiate the claim, the appellant-petitioner deposed as P.W.1. He also examined one Dr.G. Jaya Prakash as P.W.2 and got marked Ex.A.1 – FIR in Crime No.164 of 2002 of Dichpally Police Station, Ex.A.2 – Charge Sheet, Ex.A.3 – Wound Certificate, Ex.A.4 – Disability certificate issued by P.W.2, Ex.A.5 – Copy of insurance cover note and Ex.A.6 – X Ray. There is evidence of P.Ws.1 and 2 that the appellant suffered injuries and also disability as exhibited in Ex.A.4. In the criminal case relating to the accident in question, the appellant herein is the de-facto complainant. There, he did not mention that he suffered injuries in the motor accident. He only stated that his family members travelled in the Tata Sumo Jeep bearing registration No.AP 25 F 888 suffered injuries. The contention of the appellant is that immediately after the accident, he took treatment in Government hospital. But he did not file a single certificate to substantiate the same. In Ex.A.2 – Charge Sheet also, there is no mention that the appellant suffered injuries in the accident. Ex.A.3 – Wound Certificate is contrary to the pleadings in the original petition filed before the Tribunal. The Tribunal, while analyzing the ocular and the documentary evidence on record, held that Ex.A.3 – Wound Certificate does not relate to the accident in question. Therefore, the findings of the Tribunal are based on record and there is nothing to take a different view. Ex.A.4 – Disability Certificate of the petitioner is

also of no help to him, as he did not establish that he suffered injuries in the accident which occurred on 25.08.2002 due to the use of Tata Sumo Jeep bearing registration No.AP 25 F 888. The findings of the Tribunal are based on record. This Court finds no substance in the contentions of the learned counsel for the appellant. The Appeal is devoid of merits and is liable to be dismissed.

6. In the result, the Appeal is dismissed confirming the order, dated 22.02.2005, passed in O.P.No.1560 of 2002 by the Tribunal. There shall be no order as to costs.

Miscellaneous petition, if any, pending in this Appeal shall stand dismissed.

Dr. Shameem Akther, J

20th October, 2017
Bvv

