

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

[*Special Original Jurisdiction*]

THURSDAY THE FIFTH DAY OF OCTOBER
TWO THOUSAND AND SEVENTEEN

P R E S E N T
HONOURABLE DR. JUSTICE SHAMEEM AKTHER

MACMA.No. 2460 OF 2005

Between:

Oddepally Sayanna @ Pochaiah ... Appellant

V/s.

G. Gangaram & Anr. ... Respondents

Counsel for the appellant : Sri P. Radhive Reddy

Counsel for the Respondents: : Smt.Pushpinder Kaur



The court made the following: [Judgment follows]

HONOURABLE DR. JUSTICE SHAMEEM AKTHER

MACMA.No. 2460 OF 2005

J U D G M E N T :

This Civil Miscellaneous Appeal is filed by the appellant/claimant against the award and decree dated 28/04/2005 passed in OP.No. 327 of 2000 by the Motor Accident Claims Tribunal [IV-Additional District Judge] FTC, Nizamabad.

2. Heard the standing counsel appearing on behalf of the respondent No.2-The Oriental Insurance Company Limited, Nizamabad. Today, there is no representation on behalf of the appellant. Earlier also on three occasions i.e., 16/3/2017, 22/3/2017 and 13/4/2017, there was no representation on behalf of the appellant. It appears that the appellant has no interest to pursue the appeal. However, the matter is required to be disposed of on merits.

3. The trial Court after examining the oral and documentary evidence was pleased to dismiss the claim of the appellant made for Rs.2,00,000/-. Aggrieved by the same, the appellant/claimant preferred this appeal.

4. As per averments of appeal that the lorry bearing No. AP-7-V-765 was responsible for causing injuries to the appellant. The appellant has suffered simple and grievous injuries. The appellant has also proved the lorry

in question was insured with the second respondent, however, the Tribunal had not appreciated all the facts and circumstances of the case. The finding of the Tribunal is contrary to law and facts of the case, therefore, the impugned award is liable to be set aside and the appellant is entitled for compensation of Rs.2,00,000/- as prayed. The learned standing counsel for the respondent No.2 would submit that there is no legally acceptable evidence that the appellant suffered injuries due to use of lorry bearing No.AP-7-765. The trial Court had rightly considered and rejected all the facts and circumstances of the case and dismissed the claim-petition. The findings of the trial Court is based on record and all the contentions put forth in appeal are untenable and ultimately prayed to dismiss the appeal, with costs throughout.

5. In view of the above rival contentions, the point for determination is whether the appellant is entitled for compensation of Rs.2,00,000/- against the respondents.

6. To substantiate the case, the appellant himself examined as PW-1 and also examined Dr.L. Ramulu and also got marked Exs.A-1 to A-11 i.e., copy of FIR, discharge certificate of Gandhi Hospital, Certificate issued by Bhoopathi Reddy, medical bills and disability certificate issued by PW-2 Dr. L. Ramulu. While dealing with the above evidence, The Tribunal came to

the conclusion that the name of the appellant is neither mentioned in the FIR in Crime No. 14 of 2000 registered for the offence under Section 338 of IPC of Bhiknoor Police Station, Nizamabad and no copy of the charge sheet is filed in this case. The appellant has to establish that he suffered injuries in the motor accident. Absolutely no iota of evidence placed on record, therefore, the medical record filed before this Court is no way useful to award compensation. The Tribunal after appreciation of all the facts and circumstances of the case, ultimately was pleased to dismiss the same basing on the evidence and documents on record. The findings of the Tribunal are supported by cogent and clinching reasons, therefore, there is nothing to take a different view. The appeal is devoid of merit and the same is accordingly dismissed. There shall be no order as to costs.

5. As a sequel, miscellaneous petitions if any, pending in this MACMA shall stands disposed of.

DR. JUSTICE SHAMEEM AKTHER,

HONOURABLE DR. JUSTICE SHAMEEM AKTHER



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