

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

C.M.A.NO. 2369 OF 2004

JUDGMENT:

This appeal is preferred by the claimant in O.P.No.342 of 1998 on the file of the Motor Accidents Claims Tribunal(District Judge), Nizamabad. He filed the claim petition before the Tribunal alleging that on 18.2.1998 while he was going on the side of the road along with his bicycle on foot from Banswada towards Varni side, at about 8.30 p.m. when he reached Someshwar village sivar on Banswada to Varni road, one jeep bearing No.MH-23/T-9636 driven by its driver in rash and negligent manner came from opposite direction and dashed against the petitioner. In the said accident, the petitioner fell down and the front wheel of the jeep ran over the petitioner, due to which, the petitioner received fracture injuries to left leg, left foot, left ankle, right leg, injuries on both hands, head and other parts of the body. He was admitted in Government Hospital, Banswada. Thereafter, he was referred to Government Headquarters Hospital, Nizamabad. He was treated by Dr.L.Ramulu, Orthopaedic Surgeon and team of doctors. His left leg was operated twice and rod was also inserted. He took treatment in private hospitals and incurred an amount of Rs.80,000/- for his treatment.

2. The 1st respondent is the owner and the 2nd respondent is the insurer of the vehicle. He claimed compensation of Rs.2,00,000/- for the injuries sustained by him in the said accident.

3. The 1st respondent remained ex parte and the 2nd respondent filed a written statement denying the petition allegations and stating that the 1st respondent has specific knowledge about the accident and in spite of the same he has not cooperated by furnishing necessary information and documents and hence, no award can be passed against the 2nd respondent. It was further stated that the compensation claimed was excessive and the petitioner is to be put to strict proof of the same.

4. On the basis of the above pleadings, the following issues were framed:

“1. Whether the accident was due to rash and negligent driving of the Vehicle bearing No.MH-23/T-99636 by its driver?

2. Whether the petitioner is entitled for compensation? If so, to what amount and from which of the respondents?

3. To what relief?”

5. The petitioner was examined as PW1 and Exhibits A1 to A5 were marked. One Dr.T.Narsing Rao was examined as PW2 and Ex.B1 policy was marked.

6. The Tribunal, on the basis of the oral and documentary evidence, came to the conclusion that the accident occurred due to rash and negligent driving of the driver of the vehicle owned by the 1st respondent which was insured with the 2nd respondent.

7. Coming to the quantum of compensation, the Tribunal noticed that the petitioner sustained four simple injuries. The Doctor who treated the petitioner at Government Hospital, Banswada did not issue any Disability Certificate. The evidence of PW2 was not supported by any X-Rays taken before issuing Ex.A3 prescriptions and Ex.A4 Disability Certificate. As per Ex.A2 Wound Certificate issued by Civil Assistant Surgeon, Government Hospital, Banswada, the following injuries were noticed:

- 
- “1. Swelling of left ankle foot.
 2. Abrasion on right medial side of thigh
 3. Abrasion on right medial side of ankle
 4. Abrasion on left elbow.”

8. The above injuries are all simple injuries. In support of the case of PW2, there is no supporting evidence and in view of the simple injuries sustained by the petitioner, a compensation of Rs.5,000/- was awarded towards pain and suffering along with interest @ 9% p.a. Seeking enhancement of the same, the present appeal was filed.

9. Apart from Ex.A2 Wound Certificate showing the injuries at the initial stage, there is no other evidence in support of the case of the petitioner. The evidence of PW2 was not trustworthy as it was not supported by any medical record.

10. In the circumstances, the appeal is dismissed confirming the award passed by the Tribunal on 22.4.2004 in O.P.No.342 of 1998.

Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

A. RAMALINGESWARA RAO,J

Date: 10.4.2018

KPM

