

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

C.M.A.No.1649 OF 2004

JUDGMENT:

This appeal is filed by the appellant-claimant under Section 173 of the M.V. Act, aggrieved by the award, dated 25.11.2003, in O.P.No.1351 of 1999, passed by the Motor Accident Claims Tribunal-cum-Principal District Judge, R.R. District, L.B. Nagar, Hyderabad, whereby the O.P. was dismissed.

2. Heard both sides and perused the record.

3. Learned counsel for the appellant would submit that there is criminal case record to show that the appellant suffered injuries in a motor accident that occurred on 30.12.1998. By mistake, the appellant deposed in his evidence that the accident occurred on 30.04.1999. The Tribunal ought to have relied on the documentary evidence and ultimately, prayed to set aside the impugned order and remand the matter to the Tribunal for adjudication afresh.

4. On the other hand, learned standing counsel for the respondent-Insurance Company would submit that the Tribunal had rightly dealt the issues. There are no merits in the appeal and ultimately, prayed to dismiss the appeal.

5. The appellant filed the impugned O.P. claiming compensation of Rs.2,50,000/- for the injuries said to have been suffered by him in a road accident. He deposed as P.W.1 and also got marked Ex.A1-CC of FIR, Ex.A2-CC of charge sheet, Ex.A3-Discharge record issued by NIMS, Ex.A4-Medical reports and prescriptions, Ex.A5-bunch of

medical bills, Ex.A6-Salary certificate and Ex.A7-Leave certificate issued by the company. As per the evidence, the appellant said to have suffered injuries on his right knee. He was shifted to Balaji Hospital. Thereafter, he was taken to Kamineni hospital. From the pleadings and record, the accident said to have occurred on 30.12.1998, in which, the appellant said to have suffered injuries. P.W.1/injured had specifically stated that the accident occurred on 30.04.1999. The appellant is an educated person and an employee. There is discrepancy between the oral evidence and documentary evidence with regard to the date of occurrence of accident. The appellant had not clarified with regard to the discrepancy in the date of occurrence of the accident in his further chief that accident occurred on 30.12.1998. Further, when the above mentioned documents are looked into, they are spread over from December, 1998 to February, 2000. As per the record, the appellant suffered only injury to right knee. No treatment is required for long period. Certainly, the medical record, oral evidence of the appellant and the pleadings made in the appeal create a doubt with regard to appellant suffering injuries in a road accident. Further, it is appropriate to state that the Tribunal had discussed the entire oral and documentary evidence and rightly dismissed the claim petition for want of proof of occurrence of accident on 30.12.1998. There are no circumstances to interfere with the same. Therefore, the appeal is devoid of merit and is liable to be dismissed.

6. Accordingly, the Appeal is dismissed confirming the award, dated 25.11.2003, in O.P.No.1351 of 1999, passed by the Motor Accident Claims Tribunal-cum-Principal District Judge R.R. District, L.B. Nagar, Hyderabad . No order as to costs. Miscellaneous petitions, if any pending in this appeal shall stand closed.

DR.SHAMEEM AKTHER, J

DATED: 20-06-2018

Hsd

