

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.1900 of 2005

JUDGMENT:

Aggrieved by not awarding compensation as against a claim of Rs.1,00,000/- by the Chairman, Motor Accidents Claims Tribunal-cum-Principal District Judge, Warangal (for short, 'the Tribunal'), vide order, dated 05.10.2004, passed in M.V.O.P.No.587 of 2003, the appellant-claimant preferred this appeal under Section 173 of the Motor Vehicles Act, 1988 ('the Act', for brevity).

2. Heard the learned counsel for the appellant-claimant and perused the record.

3. When the matter was listed on 27.06.2018, there was no representation on both sides. Therefore, the matter was directed to be listed to today under the caption for orders. Even today, there is no representation for the respondents, despite service of notice. Therefore, the appeal can be disposed of basing on the material available on record.

4. Learned counsel for the appellant would submit that the appellant suffered grievous injuries including the head injury; that the appellant himself examined as P.W.1 besides examining P.Ws.2 and 3 on his behalf; that though there is ample evidence to substantiate the contentions of the appellant, the Tribunal without considering the same, dismissed the claim petition; that though a criminal case was registered and the case records were exhibited, which reveal that the appellant has sustained injuries in the accident, the Tribunal ought not to have dismissed the claim petition and ultimately, prayed to set aside the impugned order.

5. It is evident from the record that P.Ws.1 to 3 were examined with regard to the occurrence of the accident and the injuries said to have suffered by the appellant in a road accident, which occurred on 15.03.2003.

6. The case of the appellant is that while he was going on his motorcycle along with his friend and when they reached near Raghavapuram Village, the driver of Tractor and Trailor bearing Nos.AP-36-U-7172 and AP-36-U-7173, came in opposite direction in a rash and negligent manner and dashed against his scooter, due to which the appellant fell down and received multiple injuries. He was treated in M.G.M. Hospital, Warangal, for a period of one week and subsequently, he had taken treatment in Jaya Hospital, Hanamkonda. He spent huge amount for treatment. The 1st respondent-owner and 2nd respondent-insurance company are jointly and severally liable to pay compensation to the appellant.

7. In the evidence, it has come out that Ex.A.1-copy of First Information Report was lodged one month after the occurrence of the accident. In the cross-examination, the appellant stated that he regained conscious after 15 days of the occurrence of the accident. Though the appellant contended that he took treatment in M.G.M. Hospital, no single document is filed to substantiate the same. It is contended on behalf of the insurance company in the O.P. that in collusion with the tractor owner, the impugned O.P was filed. Ex.A.8 is the case sheet issued by M.G.M. Hospital, Warangal. Ex.A.9 is also another case sheet issued by Jaya Hospital, Hanamkonda. As per Ex.A.9, the appellant himself fell down from two wheeler and it does not disclose that he was hit by

tractor and trailer. Ex.A.8-case sheet maintained by M.G.M. Hospital shows that the appellant said to have fallen from the scooter at 9:20 AM on 17.03.2003.

8. The case of the appellant is that he received injuries on 15.03.2003 in the accident. But, there is no single document to show that he took treatment on 15.03.2003. There are major contradictions with regard to date of accident and also the manner in which the appellant suffered injuries. The burden is on the appellant to prove that he sustained injuries due to rash and negligent driving of driver of tractor trailer. The Tribunal held that the appellant did not suffer injuries due to rash and negligent driving of driver of subject tractor trailer bearing Nos.AP-36-U-7172 and AP-36-U-7173. The findings of the Tribunal are based on proper appreciation of evidence on record. Therefore, the impugned order does not suffer from any infirmity, so as to call for interference by this Court.

9. Accordingly, the appeal is dismissed confirming the order, dated 05.10.2004, in M.V.O.P.No.587 of 2003 passed by the Chairman, Motor Accidents Claims Tribunal-cum-Principal District Judge, Warangal.

Miscellaneous Petitions pending, if any, shall stand closed.

No order as to costs.

Dr. SHAMEEM AKTHER, J

JULY 11, 2018

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Date:11.07.2018

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