

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2814 OF 2005

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988, is filed by the appellant/claimant aggrieved by order, dated 03.08.2005, passed in M.V.O.P.No.55 of 2004 by the learned Chairman, Motor Accident Claims Tribunal – cum – IV Additional District Judge, Warangal (for short, “the Tribunal”).

2. Learned counsel for the appellant/claimant is present and reported that she has given back the record to the appellant/claimant. Though the appeal pertains to the year 2005 and the same is listed today under the caption “For Orders”, the appellant has not taken interest to pursue the appeal. There is no representation on behalf of the respondents. However, this case can be disposed of basing on the material available on record.

3. The claim petition of the appellant/claimant was dismissed disbelieving the occurrence of the accident. There is inconsistency in the medical evidence and the oral evidence with regard to the claimant suffering injuries in the road accident that occurred on 01.09.2002 at about 7:00 P.M. due to the rash and negligent driving of rider of Hero Honda Splendor Motor Cycle bearing No.AP 36 H 8918. The date of occurrence of the accident is 01.09.2002. A report was given to the police by the claimant on 03.09.2002 and a case was registered under Section 337 I.P.C. No explanation was given for the delay in lodging the report before the police. There is also evidence of P.W.1/claimant that he did not inform anybody with regard to the occurrence of the accident. He

himself went to hospital and did not note down the number of the vehicle that caused the accident. He stated that some of the auto rickshaw drivers have given the registration number of the offending vehicle to him. He did not furnish the names of the persons who furnished that information. He did not prove that the occurrence of the accident is due to the rash and negligent driving of the rider of the offending motor cycle. The Tribunal elaborately dealt with these aspects. More over, the Tribunal observed that the claimant was a Constable and it is manifest that he should have known the consequences and implications of delay in lodging complaint. Except the evidence of P.W.1, who is not the person who collected the details of the motor cycle from some others, who were not examined, there is no other evidence to prove the rashness and negligence on the part of the offending vehicle. The Tribunal ultimately held that the claimant failed to prove the alleged accident. The claimant intended to make an unlawful gain for himself. The findings are based on the evidence on record. There is nothing to take a different view. The appeal is devoid of merit and is liable to be dismissed.

4. Accordingly, this appeal is dismissed. There shall be no order as to costs.

5. Miscellaneous petitions pending, if any, in this appeal shall stand closed.

DR.JUSTICE SHAMEEM AKTHER

Date : 03.08.2018
AMD

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