THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3583 of 2005

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988, is filed by the appellant/claimant aggrieved by not awarding compensation, as against a claim of Rs.1,50,000/-, by the Chairman, Motor Accidents Claimants Tribunal-cum-V Additional District Judge, Nizamabad, (for short, "the Tribunal") *vide* order, dated 17.08.2005, passed in O.P.No.619 of 2001.

2. Heard the learned counsel for the appellant/claimant, Sri R.Venkat Rao, learned Standing Counsel for the 2nd respondent, the New India Assurance Company Limited and perused the record.

3. Learned counsel for the appellant would contend that the appellant suffered grievous injuries in a road accident caused by Van bearing No.AAJ-228 driven by its driver; that with regard to the rashness and negligence on the part of driver of Van bearing No.AAJ-228, the Tribunal decided the issue against him, which is erroneous and contrary to the evidence on record. Further, the Tribunal did not grant any compensation for the injuries suffered by the appellant and ultimately, prayed to allow the claim petition filed for Rs.1,50,000/-.

4. On the other hand, learned Standing Counsel for the 2nd respondent- insurance company would contend that the appellant did not explain the injuries suffered in the accident. Further, the appellant was not having licence to drive the vehicle and he did not examine any eyewitness to substantiate his contention. P.W.2,

Dr.T.Narsing Rao, is in the habit of issuing false wound certificates with exaggerated injuries. The Tribunal rightly considered the entire evidence on record and dismissed the claim petition and hence, prayed to dismiss the appeal.

5. In view of the above submissions, the points that arise for consideration in this appeal are:

1) Whether the appellant suffered injuries due to rash and negligent driving of driver of Van bearing No.AAJ-228?

2) Whether the judgment and decree passed by the Tribunal is set aside by allowing the claim petition of the appellant?

6. **Point Nos.1 and 2**

P.W.1, who is injured, deposed with regard to the occurrence of the accident on 01.12.1999 due to rash and negligent driving of driver of Van bearing No.AAJ-228. He also placed reliance on Ex.A.1-certified copy of FIR and Ex.A.5-copy of insurance policy. Learned Standing Counsel for the 2nd respondent-insurance company contended that there was negligence on the part of the appellant in driving the motorcycle bearing registration No.AP-25-D-619. Admittedly, P.W.1 is an interested witness. He had not examined any independent person to prove the rashness and negligence on the part of the driver of Van bearing No.AAJ-228. Admittedly, there is no independent person to prove the rashness or negligence on the part of the driver of the offending van bearing registration No.AAJ-228. Therefore, it is difficult to sustain the submissions made on behalf of the appellant/claimant. Further, there is inconsistency in Ex.A.3-wound certificate as well as Ex.A.1-copy of F.I.R and other documents placed on record. This

Court on several occasions, held that P.W.2-Dr.N.Narsing Rao is in the habit of issuing wound certificates with exaggerated injuries. Therefore, it is not safe to act upon Ex.A.3-wound certificate which shows 1) Fracture to right leg and left knee and 2) Injury to the head. The Tribunal had given elaborate reasons to discard Ex.A.3-wound certificate filed by the appellant/claimant. Under these circumstances, there is nothing to take a different view with regard to the findings recorded by the Tribunal with regard to the occurrence of the accident as well as injuries suffered by the appellant-claimant. The appeal is devoid of merit and is liable to be dismissed.

7. Accordingly, the appeal is dismissed confirming the order, dated 17.08.2005, passed in O.P.No.619 of 2001 by the Chairman, Motor Accidents Claimants Tribunal-cum-V Additional District Judge, Nizamabad.

Miscellaneous Petitions pending, if any, shall stand closed. There shall be no order as to costs.

Dr. SHAMEEM AKTHER, J

AUGUST 29, 2018
YVL

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

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

M.A.C.M.A.No.3583 of 2005

Date:29.08.2018

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