

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

CIVIL MISCELLANEOUS APPEAL No.877 OF 2008

ORDER:

This civil miscellaneous appeal is filed by the appellant-respondent under Order XLIII Rules 1 and 2 of CPC read with Section 173 of the Motor Vehicles Act, assailing the order dated 12.6.2006 passed in I.A. No.488 of 2006 in M.A.T.O.P. No.583 of 1999 on the file of the Motor Accidents Claims Tribunal-cum-IV Additional District Judge (FTC-III), Khammam.

2. Heard the learned counsel for the appellant.

3. The respondent-claimant filed M.A.T.O.P. No.583 of 1999 under Section 166 of the Motor Vehicles Act claiming compensation of Rs.50,000/- from the appellant. The Tribunal allowed the O.P., vide order and award dated 23.4.2005. The appellant filed I.A.No.488 of 2006 under Order IX Rule 13 read with Section 151 of CPC to set aside the *ex parte* award dated 23.4.2005. The Tribunal, after affording reasonable opportunity to both parties, dismissed the I.A. Hence, the revision.

4. A perusal of the record reveals that even after receipt of the summons in the O.P., the appellant did not choose to appear before the Tribunal. The Tribunal, having no other alternative, passed the *ex parte* award on 23.4.2005. The record further reveals that the appellant is an employee in Singareni Collieries Limited, Kothagudem. It is not the case of the appellant that due to lack of knowledge, he did not appear before the Tribunal even after receipt of the summons.

5. The record *prima facie* reveals that the accident occurred due to rash and negligent driving of the vehicle by the appellant, which resulted in injuries to the respondent. The appellant is very much aware of the proceedings initiated against him in the O.P. The record further reveals that the appellant himself allowed the Tribunal to pass *ex parte* on 23.4.2005. The affidavit filed by the appellant in support of the I.A., does not disclose the reasons much less valid reasons to set aside the *ex parte* award. If the petition is allowed, it may cause untold hardship and financial loss to the respondent. The Tribunal, taking into consideration the pathetic condition of the respondent, dismissed the petition. The Tribunal has assigned reasons much less cogent and valid reasons to its findings. I am fully endorsing the findings recorded by the Tribunal. There are no grounds much less valid grounds to interfere with the impugned order.

6. Hence, the civil miscellaneous appeal is dismissed. Miscellaneous petitions if any pending in this petition shall stand closed.

T.SUNIL CHOWDARY, J.

Date: 13.7.2018
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