

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3329 OF 2005

JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act'), by the appellant-claimant aggrieved by the order dated 23.02.2005 in O.P.No.17 of 1998 on the file of the Motor Accident Claims Tribunal-cum-I Additional District Judge, Nizamabad (for short 'the Tribunal').

2. Heard the learned counsel for appellant-claimant, the learned Standing Counsel for 2nd respondent-Insurance Company and perused the record. No representation for 1st respondent-owner.

3. Learned counsel for the appellant-claimant would contend that the appellant suffered grievous injuries in the accident occurred on 19.12.1997 due to the rash and negligent driving of the driver of bus bearing No.AAZ/6681. There is ample medical record as well as oral and documentary evidence. However, the Tribunal did not consider the same and dismissed the said O.P.

4. Learned counsel for the respondent-Insurance Company would contend that the Tribunal had analysed the entire oral evidence and dismissed the claim of the appellant. There is no infirmity in the order under challenge. There are no circumstances to vary and ultimately prayed to dismiss the appeal.

5. While dealing with the subject matter of the claim petition, the Tribunal was pleased to settle the following issues for trial:-

1. Whether the accident was due to rash and negligent driving of the bus bearing No.AAJ 6681 by its driver?

2. Whether the petitioner is entitled for compensation. If so, to what amount and against which of the respondents?
3. To what relief?

6. The Tribunal has relied on the evidence of P.Ws.1 to 3 and also the documents marked as Ex.A1-FIR, Ex.A2-wound certificate and Ex.A3-insurance policy and also the evidence of R.W.1 and held that the appellant did not suffer injuries due to the rash and negligent driving of the driver of bus bearing No.AAZ 6681. Admittedly, the details of the said bus and its driver are not given in the FIR and also there is no legally acceptable evidence to substantiate the involvement of the said bus in the subject accident. When the accident has not been proved, the assessment and award of compensation would be a futile exercise. The Tribunal had dealt with all the contentions and rendered a finding based on evidence on record. There is nothing to take a different view. The appeal is devoid of merit and is liable to be dismissed.

7. In the result, the appeal is dismissed.

The Miscellaneous Petitions, if any, pending shall stand closed.

No costs.

Date: 21.08.2018
ssp

Dr. SHAMEEM AKTHER, J