

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.3136 of 2005

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988 ('the Act', for brevity), is filed by the appellant-claimant, challenging the Judgment, dated 13.07.2005, passed in O.P.No.1101 of 2002, by the Chairman, Motor Accident Claims Tribunal-cum-IV Additional District Judge (FTC), Nizamabad ('the Tribunal', for brevity).

2. Heard both sides and perused the record.

3. The learned counsel for the appellant-claimant would contend that though the appellant suffered grievous injuries, the Tribunal erroneously dismissed the claim petition and hence, prays to allow the claim petition by setting aside the impugned order.

4. On the other hand, the learned Standing Counsel for the 2nd respondent-insurance company would contend that Dr.L.Ramulu, who issued Ex.A.2-wound certificate, is in a habit of issuing Wound Certificates with exaggerated injuries. This Court and the Tribunals at Nizamabad have declined to act upon the certificates issued by him in many cases. In an appeal, this Court directed to prosecute him. Hence, the Wound Certificate issued by him under Ex.A.2 cannot be relied upon. Further, there is inconsistency with regard to oral and documentary evidence. There are no circumstances to allow claim petition and ultimately, prayed to dismiss the appeal by confirming the order under challenge.

5. As seen from the record, the appellant met with an accident on 28.04.2002 at about 9:00 AM while she was proceeding to Padkal Village from Armoor along with her father and mother in an Auto

bearing No.AP-25-U-1085 and when the auto reached the outskirts of Argul Village, the driver of the auto drove the vehicle in a rash and negligent manner with high speed and lost control, due to which the auto turned turtle. Due to the accident, the appellant sustained fracture injuries to both hands, forehead, legs and other parts of the body. In order to prove the accident, the appellant herself examined as P.W.1 and marked Ex.A.1-FIR, Ex.A.2-copy of Wound certificate and Ex.A.3-copy of charge sheet. The Tribunal, after perusing the oral and documentary evidence on record, held that there is inconsistency in the oral and documentary evidence. The Tribunal conducted elaborate exercise and held that the appellant failed to prove that she suffered grievous injuries in the road accident occurred on 28.04.2002. This Court and the Tribunals at Nizamabad declined to act upon the certificates issued by Dr.L.Ramulu in many cases. There is no legal acceptable evidence to substantiate that the appellant suffered grievous injuries in the subject accident due to rash and negligent driving of driver of Auto bearing No. AP-25-U-1085. There are no grounds to allow the claim petition and therefore, the appeal is devoid of merit and is liable to be dismissed.

6. In the result, the appeal is dismissed. No costs.

Pending miscellaneous petitions, if any, shall stand closed.

AUGUST 31, 2018

YVL

Dr. SHAMEEM AKTHER, J

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Date:31.08.2018

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