

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.1870 of 2006

JUDGMENT:

This appeal, under Section 173 of the Motor Vehicles Act, 1988 ('the Act', for brevity), is filed by the claimant, challenging the order, dated 02.04.2006, passed in O.P.No.394 of 2002, by the Chairman, Motor Accident Claims Tribunal-cum-IV Additional District Judge (FTC), Ranga Reddy District, whereby, his claim petition claiming a compensation of Rs.2,00,000/- on account of the injuries suffered by the him in a motor accident occurred on 03.04.2002, was dismissed.

2. Heard the learned counsel for both sides and perused the record.

3. The learned counsel for the appellant-claimant would contend that there is ample evidence on record to show that the subject accident occurred on 03.04.2002, due to rash and negligent driving of the driver of the Eicher Van bearing registration No.AP-11-T-7898. The Tribunal erroneously dismissed the claim of the appellant-claimant and ultimately prayed to allow the appeal by setting aside the Order under challenge.

4. Per contra, the learned Standing Counsel for the 2nd respondent-Insurance Company would contend that there is ample evidence on record to prove that the subject accident occurred due to rash and negligent driving of the driver of the lorry bearing registration No.AP-13-T-6136. Eicher Van bearing registration No.AP-11-T-7898 was planted in this case to claim compensation

from the Insurance Company. The Tribunal had elaborately dealt with the issue with regard to involvement of the lorry bearing registration No.AP-13-T-6136 in the subject accident and rightly dismissed the claim petition. There are no circumstances to interfere with the impugned order and ultimately prayed to dismiss the appeal by confirming the Order under challenge.

5. In view of the above rival contentions, the points that arise for consideration in this appeal are as follows:

1. Whether the subject accident occurred due to rash and negligent driving of the driver of the Eicher Van bearing registration No.AP-11-T-7898?
2. Whether the appellant-claimant is entitled for compensation of Rs.2,00,000/- as claimed, for the injuries said to have been suffered by him in the subject accident?

Point No.1

6. The Tribunal, while dealing with the subject matter of the appeal, had elaborately discussed the oral and documentary evidence on record. Ex.A.1 is the Certified Copy of the FIR, which show that Crime No.59/2002 was registered against the driver of the lorry bearing registration No.AP-13-T-6136 for the offence under Section 337 of IPC for causing the subject accident. As per Ex.A.1, the accident occurred on 03.04.2002 at 02:15 PM, i.e., in the broad day light on Hyderabad-Srisailam highway, near the limits of Sardarnagar Village, Maheshwaram Mandal. The FIR was registered on a report lodged by one P.Shivraj of Raviryal village. According to Ex.A.1-FIR, the said P.Shivraj and P.W.2-Ramesh Goud were proceeding from Hyderabad to Mankal on motor cycle on the date of accident, i.e., on 03.04.2002 at 02:15 PM, to attend a marriage. In the meantime, one lorry bearing registration

No.AP-13-T-6136, which was proceeding from Hyderabad side, dashed the motorcycle bearing No.AP-11-E-6111 by which the appellant-claimant was travelling. The rider of the motorcycle suffered grievous injuries. In the course of investigation, the statement of the appellant-claimant was recorded by the police.

7. Ex.A.2 is the certified copy of the Charge-sheet. It shows that the driver of the Eicher Van bearing registration No.AP-11-T-7898 is responsible for the occurrence of the subject accident. Ex.B.2 is the copy of alteration memo, dated 03.04.2002, where under, the section of law was altered from 337 IPC to 304-A IPC. Ex.B.3 is Panchanama for observation of the scene of offence held in the subject crime. The scene of offence was conducted on 03.04.2002 at 02:30 PM. As per Ex.B.3, the crime vehicle is AP-13-T-6136, which is shown in the Ex.A.1-FIR, but different from the vehicle mentioned in the Ex.A.2-Charge sheet. The registration number of the motorcycle on which the appellant-claimant was travelling on the date of the accident was one and the same in Ex.A.1, Ex.A.2 and Ex.B.3. Ex.B.4 is the statement of one J.Laxmaiah, who is an eye-witness to the subject accident. His statement was recorded by the police on 04.04.2002 in the subject crime. His statement reveals the involvement of the lorry bearing registration No.AP-13-T-6136, i.e., the same vehicle mentioned in Ex.A.1-FIR, in the subject accident. Ex.B.5 is the rough sketch of scene of offence, which reveals about the involvement of lorry bearing registration No.AP-13-T-6136 in the subject accident, i.e., the same vehicle mentioned in Ex.A.1-FIR. R.W.1 deposed about the false implication of the lorry bearing registration No.AP-11-T-

7898 in the instant crime for the purpose of claiming compensation. Exs.B.1 to B.5 corroborates the evidence of R.W.1 and falsifies the involvement of the Eicher Van bearing registration No.AP-11-T-7898 in the subject accident. It goes to show that the police went to the extent of falsifying their own records by mentioning one vehicle in the FIR and another vehicle in the charge-sheet. The Tribunal, while dealing with the subject matter, held that the subject accident occurred due to negligence on the part of the driver of the lorry bearing registration No.AP-13-T-6136, and not due to negligence on the part of the driver of the Eicher Van bearing registration No.AP-11-T-7898. There is record to show that the subject accident occurred due to the rash and negligent driving on the part of the driver of the lorry bearing registration No.AP-13-T-6136 only. The findings of the Tribunal are based on record. There is nothing to take a different view.

Point No.2:-

8. In view of the above discussion, the appellant-claimant is not entitled for any compensation. The Tribunal is justified in dismissing the claim petition of the appellant-claimant. The appeal is devoid of merit and is liable to be dismissed.

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

Miscellaneous Petitions pending, if any, shall stand closed.

Dr. SHAMEEM AKTHER, J

23rd July, 2018
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