

THE HON'BLE SRI JUSTICE M.GANGA RAO

M.A.C.M.A.No.108 OF 2011

JUDGMENT:

Appellant-claimant filed this appeal against the judgment and decree dated 21.03.2005 passed in O.P.No.528 of 2000 by the Chairman, Motor Accidents Claims Tribunal, Ongole-cum-IV Additional District Judge, Prakasam, Ongole, dismissing the claim petition filed by the appellant seeking compensation of Rs.1 lakh for the injuries sustained by him in the accident occurred on 27.05.2000.

Appellant filed claim petition under Section 166 of the Motor Vehicles Act alleging that on 27.05.2000 while he was driving the lorry bearing No.AP5 U 6346 from Madras to Ongole at about 3.00 a.m. on National Highway-5 road near Budanam Village of Nellore District, a lorry came in his opposite direction being driven by its driver in a rash and negligent manner and dashed against the lorry driven by the appellant, due to which, the appellant sustained injuries to his right knee and left hand. He also sustained fracture to right leg near knee. Initially he got operated in Government Hospital, Nellore, and later he joined in Chaitanya Hospital, Ongole, for better treatment. It was further alleged that he lost his earning capacity due to accident and he incurred Rs.30,000/- towards treatment. Thus, he claimed Rs.1 lakh towards compensation from the respondents, who are the owner and insurer of the lorry being driven by the claimant at the time of accident.

The first respondent-owner of the offending lorry remained *ex parte* before the Tribunal.

The second respondent-Insurance Company filed a written statement stating that the claimant was not employed for the 1st respondent, the claim petition was bad for not adding the owner of opposite vehicle and its insurer as parties, the claimant was not having valid license at the time of accident and the compensation claimed was excessive.

Based on the above pleadings, the Tribunal framed the following issues for its consideration:

- 1) Whether the accident occurred due to the rash and negligent driving of the driver of lorry bearing No.AP-5-U-6346)
- 2) Whether the petitioner is entitled to any compensation? If so, to what amount and from whom?
- 3) To what relief?

On behalf of the appellant, PWs 1 and 2 were examined and Exs.A.1 to A.6 were got marked. On behalf of the respondent-Insurance Company, R.W.1 was examined and Exs.B.1 and B.2 were got marked.

Based on the evidence of PW.1-appellant, who admitted in his cross-examination that in concerned STC No.544/2000, he admitted his guilt of committing the accident for which he was sentenced to pay a fine of Rs.500/-, in view of the inconsistency in the evidence of P.W.1 with regard to the hospital where he took his initial treatment immediately after the accident and in the absence of wound certificate filed by the appellant, the Tribunal dismissed the claim petition. Aggrieved by the same, the present appeal came to be filed.

The learned counsel for the appellant would contend that the Tribunal having found that the appellant sustained injuries in the

accident occurred on 27.05.2000, grossly erred in dismissing the appeal merely because the wound certificate was not filed.

Per contra, learned counsel for the respondent-Insurance Company made his submissions sustaining the impugned judgment passed by the Tribunal.

As seen from the impugned judgment and as rightly pointed out by the Tribunal, the appellant in his claim petition stated that he was initially treated in Government Hospital, Nellore, whereas he deposed in his evidence as P.W.1 that immediately after the accident he was shifted to Government Hospital, Gudur, where he was given first aid. Further, according to the appellant, he got operated in Government Hospital, Nellore, wherein a steel rod was inserted in his left leg and left hand. But, no wound certificate was produced by the appellant evidencing the same. Further, it is the evidence of P.W.2-Doctor that no such steel rod was inserted. Therefore, the Tribunal disbelieved the evidence of the appellant with regard to the treatment taken by him. This Court also finds no ground to find fault with the impugned order passed by the Tribunal. The order of the Tribunal is well considered and reasoned one, which warrants no interference of this Court. Hence, the appeal is devoid of merits.

Accordingly, the appeal is dismissed.

Miscellaneous petitions pending in this appeal, if any, shall stand closed. There shall be no order as to costs.

(M.GANGA RAO, J)

30.11.2018
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