

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

MACMA No.3603 of 2005

JUDGMENT::

The claimant has preferred this appeal against the judgment and award passed by V Addl. District Judge, Nizamabad, (Motor Accident Claims Tribunal), (hereinafter referred to as "Tribunal") in Original Petition (OP) No.647 of 2002, in dismissing the said OP filed for awarding compensation of Rs.3,00,000/-. The parties hereinafter will be referred to as they were arrayed before the Tribunal for convenience sake.

02. Respondent No.1 is the owner of the lorry bearing registration No.AP 25T 3571. Respondent No.2 is the insurer of the said lorry.

03. This is a case of multiple injuries sustained by the claimant, being minor, represented by his father, filed the OP for award of compensation of Rs.3,00,000/-. The Tribunal by the impugned judgment and award dismissed the OP mainly on the ground that the claimant failed to prove that the accident occurred due to the rash and negligent driving of the driver of the offending lorry. As regards the award of compensation, it was observed that the disability claimed to have been sustained by the claimant was false

and exaggerated and the evidence produced did not inspire the confidence of the Court. Hence, this appeal by the claimant.

04. Learned counsel for the claimant submits that the Tribunal has not considered the case in proper perspective and erroneously dismissed the claim petition though there is acceptable evidence. Respondent no.2 is insurance company in this case. R-2 is dismissed for default vide order dated 06-01-2012 and hence no relief can be granted against respondent no.2.

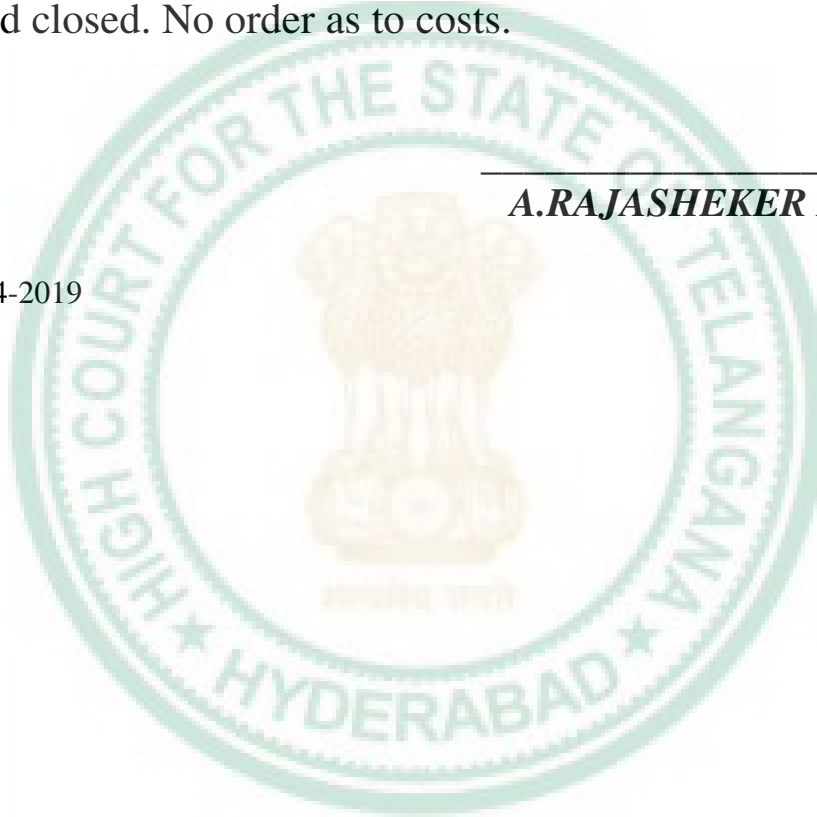
05. Even on merits of the case, on the fateful day, the claimant was proceeding on cycle and the offending lorry in question came in rash and negligent manner in high speed and dashed the cycle and due to the impact the same, he fell down and sustained injuries. It is to be seen that the eye witness to the accident was not examined to prove the culpability in causing the accident on the part of the driver of the offending lorry. It was also observed that there was inordinate delay of 2 days in giving report to the Police. It was also not explained in the evidence why the delay has been caused in lodging the complaint.

06. Coming to the question of sustaining injuries by the claimant, PW-2 doctor who claims to have treated the claimant has not produced any record of the treatment of the claimant to

substantiate his oral evidence. It was also found that their were discrepancies and no corroboration with the oral evidence of PW-2 and Ex.A-3 would certificate. The findings recorded by the Tribunal are findings of fact based on the evidence adduced by the parties, which in the facts and circumstances, does not warrant any interference. There are no merits in the appeal and it is accordingly dismissed. Miscellaneous petitions, if any pending shall stand closed. No order as to costs.

A.RAJASHEKER REDDY, J

Dated: 02-04-2019
NRG



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