

THE HON'BLE SRI JUSTICE PULLA KARTHIK

M.A.C.MA. No.64 of 2019

JUDGMENT:

This Motor Accidents Civil Miscellaneous Appeal is filed by the claimants, aggrieved by the dismissal order passed in MVOP No.549 of 2010 dated 18.09.2018 on the file of the Court of the III Additional District Judge, Ranga Reddy District at L.B.Nagar (for short "the Tribunal"), wherein the appellant had claimed a compensation of Rs.3,00,000/- for the injuries sustained by him in a motor vehicle accident that occurred on 26.05.2008.

2. The case of the Appellant is as follows:

The appellant/petitioner was the resident of Venkateshwara Nagar, Jillellaguda, Saroor Nagar Mandal, working as Surveyor in the office of the Special Deputy Collector, Land Acquisition (Industries), Hyderabad. It is pleaded that he used to earn Rs.13,126/- per month towards his monthly maintenance after deduction from his gross salary of Rs.14,377/-. On 26.05.2008 the

appellant/petitioner was coming in Tata Indica Car bearing No.AP-16-YY-TR-3124 driven by the respondent No.1. The appellant/petitioner got into the said car at Vijayawada at 11:00 p.m. It is pleaded that the respondent No.1 drove the said car in a rash and negligent manner and the said car came before IBP Petrol Bunk, Gayatri Nagar, Karmanghat, lost control over the steering when a cyclist was crossing the road, for the reason the car ran over the rocks on the left side of the road and as a result of it, the car was damaged. The appellant/petitioner sat on the left hand seat of the driver, he sustained grievous injuries (1) fracture of right elbow (2) fracture of right arm (3) contusion all over body. Immediately, passers-by admitted the appellant/petitioner in Owaisi Hospital and Research Centre as in-patient No.42104 and a surgery was done to his right hand. The appellant/petitioner pleaded that he was in the hospital for eight days and thereafter he was bed ridden due to fractures sustained by him. It is further pleaded that, if the respondent No.1 had taken measures of driving skills and giving signals on the road, the accident

would not have been occurred and that due to negligence of the respondent No.1 only the said accident took place.

3. Respondent No.1 was remained exparte before the Tribunal.

4. Respondent No.2 filed counter denying the petition averments. The respondent No.2 has not admitted about the alleged accident. It is pleaded that the appellant/petitioner has to establish the fact that respondent No.1 drove the vehicle in a rash and negligent manner and caused said accident and the appellant/petitioner sustained permanent disability due to the said accident.

5. On the strength of the above pleadings the following issues were framed for trial by the Tribunal:

1. Whether the pleaded accident that took place on 26.05.2008 at IBP Petrol Bunk, Gayatri Nagar, Karmanghat causing injuries to the appellant/petitioner

due to the rash and negligent driving of the driver of Tata Indica Car bearing No.AP-16-YY-T/R-3124?

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

6. To prove their case, the second appellant/petitioner examined herself as PW1 and got marked Ex.A1 to A4.

7. On the other hand, on behalf of respondent No.2, RW1 and RW2 were examined and Exs.B1 to B5 documents were marked.

8. Subsequent thereto, after filing of the petition, the appellant/petitioner died, his wife and sons were impleaded as legal representatives vide IA.No.66 of 2016, dated 23.10.2017.

9. Heard both sides.

10. The appellant contends that the learned Tribunal had dismissed the petition mechanically without considering the evidence and material available on record. It is further contended that the learned Tribunal failed to appreciate the fact that the deceased had sustained injuries in motor vehicle accident occurred on 26.05.2008 and he was hospitalized and was treated as in-patient that could be seen from Ex.P3 Discharge Summary. It is further contended that the learned Tribunal did not consider the same and came to wrong conclusion that no one had received injuries in the accident and non-appreciation of the documentary evidence is unsustainable under law.

11. The learned counsel for the respondent contended that the Tribunal had rightly dismissed the petition on the ground that the appellant failed to establish the occurrence of the accident and the involvement of alleged vehicle and the death was caused due to the accident. It is further contended that there is no error in the order of the Tribunal and requested to dismiss the appeal.

12. This Court has taken note of submissions made by respective parties.

13. As per Ex.A4 i.e., investigator report discloses that no person injured in the said accident, as such the petitioners are not entitled for any claim from the respondent No.2.

14. The learned Tribunal on considering the evidence on record had dismissed the petition on the ground that the petitioner miserably failed to establish the occurrence of the accident and the appellants failed to establish that the deceased was died due to grievous injuries sustained in the said accident. In view of the above, this Court does not see any error in the order of the Tribunal.

15. Hence appeal is dismissed as devoid of merits.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE PULLA KARTHIK

Date: 27.09.2022
SSN

THE HON'BLE SRI. JUSTICE PULLA KARTHIK

M.A.C.MA. No.64 of 2019

Date: 27.09.2022

SSN