

THE HON'BLE SRI JUSTICE PULLA KARTHIK

M.A.C.MA. No.125 of 2019

JUDGMENT:

This Motor Accidents Civil Miscellaneous Appeal is filed by the claimant, challenging the dismissal order passed in MVOP No.306 of 2016, dated 19.10.2018 on the file of the Chairman Motor Accidents Claims Tribunal-cum Principal District Judge, Nalgonda.

2. The case of the appellant in brief:

On 18.12.2014 at about 6.00 PM, while the petitioner was going on foot in order to go to his house in Chandupatla village of Narketpally Mandal, Nalgonda District and at that time one tractor bearing No. TS 05 BTR 4380 came in a rash and negligent manner at high speed being driven by its driver and dashed to the petitioner from its rear side. As a result the petitioner sustained injuries. Immediately the petitioner was shifted to Hamsa Hospital, Nakrekal for treatment and from there he was shifted to Osmania General Hospital, Hyderabad for better treatment.

3. It is pleaded that the accident was occurred due to rash and negligent driving of the driver of the tractor bearing No. TS 05 BTR 4380. It is further pleaded that prior to the accident the petitioner was hale and healthy and used to earn Rs.400/- per day as a labourer. The petitioner spent an amount of Rs.59,000/- for his treatment and sustained huge loss.

4. Respondent No.1 and 2 remained exparte before the Tribunal.

5. The 3rd respondent/insurance company filed its counter stating that the petition is not maintainable either under law or on facts and denied the occurrence of accident, age, income of the petitioner, the allegation of rash and negligent driving of the respondent No.1, the treatment of petitioner for injuries and also denied the registration of crime by the Nakrekal police and false claim, claiming excessive compensation.

6. Basing on the pleadings following issues were settled for trial by the Tribunal:

1. Whether the injured sustained injuries due to the accident occurred on 18.12.2014 at 6.00 PM, at Chandupatla village due to the rash and negligent driving of the driver of the Tractor bearing No. TS 05 BTR 4380?
2. Whether the claimant is entitled to claim compensation? If so, to what amount and from whom?
3. To what relief?

7. To prove the case of the appellant, he himself examined as PW1 and got examined PW2 and got marked Ex's.A1 to A4. On behalf of the appellant and on behalf of the respondent, RW1 was examined and got marked Ex.B1.

8. The appellant contends that the Tribunal had failed to see that the accident was occurred due to rash and negligent driving of the first respondent. It is further contended that the Tribunal ought to have considered the

Ex.A4 disability certificate issued by the District head quarters Hospital, Nalgonda. It is further contended that the Tribunal erred in not considering that the claimant had undergone surgery and spent huge amount.

9. In contra, the respondent contends that after considering the evidence and material on record the Tribunal had rightly dismissed the claim petition. It is further contended that there is no error in the order of the Tribunal and requested to dismiss the appeal.

10. This court has taken note of the above submissions made by the parties.

11. Undisputedly there is a delay in lodging a police complaint and the reasons are not satisfactory. Further during the cross examination of PW1, himself admitted that the tractor belongs to his village. It is the case of the appellant that the tractor dashed him from behind and it was witnessed by his parents. But the reasons are best known to the parents of the appellant who failed to

respond spontaneously to lodge the report in the police station when they got information about the particulars of the tractor and surrender of the driver is also another factor giving doubt to the mind of the court and the delay is fatal to the appellant's case.

12. As per law laid down by the Hon'ble Apex Court Judgment in Anil and others Vs. New India Assurance company reported in 2018(1) ALT 78 (SC) regarding a false claim and impact on delay and stage management. Hence, the Tribunal rightly dismissed the claim petition on the ground of unexplained delay in lodging a complaint to the police after two months from the date of accident and unsatisfactory reasons.

13. In view of the above, this court does not find any error in the order. Hence the appeal is liable to be dismissed.

14. Accordingly Motor Accidents Civil Miscellaneous Appeal is dismissed. There shall be no order as to costs.

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Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE PULLA KARTHIK

Date:19.11.2022
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