

THE HON'BLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO

M.A.C.M.A.NO.3026 OF 2014

JUDGMENT:

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988 aggrieved by the order and decree dated 26.04.2014 passed in MVOP.No.656 of 2009 on the file of the Motor Accidents Claims Tribunal (VIII Additional District Judge) at Nizamabad (for short "the Tribunal").

2. Brief facts of the case are that on 09.05.2009 at about 8.00 pm near Odyatpally while the appellant was driving his auto, he lost control over the auto and the auto turned turtle and he sustained a fracture left shoulder, fractured ribs left, injuries to hands, legs, head and other parts of the body. The police of Makloor registered a case in Crime No.121 of 2009 under Section 338 of IPC and the appellant was shifted to Tirumala Orthopaedic Hospital, Nizamabad where Dr.T.Narsing Rao treated him and advised complete bed rest for one year and follow-up treatment. As such, the appellant herein claimed compensation of Rs.1 lakh under Section 163A of the Motor Vehicles Act, 1988 against the respondent.

3. To prove his case, the appellant got himself examined as PW.1 and got marked Ex.A1 to A3. Whereas on behalf of the respondent, no evidence either oral or documentary is adduced.

4. Upon hearing both sides, the Tribunal while dismissing the claim petition observed as follows:

“6.6. As per Section 163A of the Motor Vehicles Act, the owner of the motor vehicle or the insurer is liable to pay in the case of death or permanent disability due to accident arising out of the use of the motor vehicle, compensation, as indicated in the Second Schedule, to the legal heirs or the victim, as the case may be.

6.7 In Oriental Insurance Co.Ltd., Vs Juhma Saha (MANU/SC/7047/2007), the Hon’ble Supreme Court held: “The deceased was the owner of the vehicle. For the reasons stated in the claim petition or otherwise, he himself was to be blamed for the accident. The accident did not involve a motor vehicle other than the one which he was driving. ... Liability of the insurer/Company is to the extent of indemnification of the insured against the respondent or an injured person, a third person or in respect of damages of property. Thus, if the insured cannot be fastened with any liability under the provisions of the Motor Vehicles Act, the question of the insurer being liable to indemnify the insured, therefore, does not arise.

6.9 Since the petitioner himself is the tortfeasor, he cannot seek compensation from the insurer/respondent...”

5. In view of the above observations made by the Tribunal, this Court is of the considered view that the injuries sustained by the appellant are due to his own act and liability cannot be fastned on the respondent. As such, this Court is not inclined to interfere with the order passed by the Tribunal. Hence, this MACMA is liable to be dismissed.

6. Accordingly, this M.A.C.M.A is dismissed. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending shall stand closed.

NAMAVARAPU RAJESHWAR RAO, J

Dated: 01-02-2023
CHS/TU