

(2014) 03 TP CK 0006
In the Tripura High Court
Case No : MAC App No. 41 of 2008

Md. Safique Miah Vs Abdul Matab Gaji and National Insurance Company Ltd.

Date of Decision : 25-03-2014

Acts Referred:

Motor Vehicles Act, 1988 — Section 166

Citation : (2014) 03 TP CK 0006

Hon'ble Judges : Deepak Gupta, C.J

Bench : Single Bench

Advocate : S.K. Datta, Advocate for the Appellant

Final Decision : Dismissed

Judgement

Deepak Gupta, C.J.—This appeal by the claimant is directed against the award dated 17-01-2008 delivered by the learned Motor Accident Claims Tribunal, West Tripura, Agartala in T.S. (MAC) 148 of 2005 whereby he dismissed the claim petition on the ground that the claimant had miserably failed to prove that he suffered injuries in a motor vehicle accident. The claimant filed a claim petition u/s 166 of the Motor Vehicles Act (hereinafter referred to as the M.V. Act) alleging that on 01-10-1994 at about 10 a.m. he was returning from Sonamura to his village in a commander jeep. When the said jeep reached Grantali, it was stopped on the extreme left side of the road. Thereafter, the claimant along with some other passengers got down from the back side of the jeep. In the mean time, another vehicle bearing registration No. TR-01-2191 (Jeep) came from the same direction. The said jeep was being driven rashly and negligently at a very high speed. The second jeep dashed against the victim resulting in injuries to him. Thereafter, the claimant was taken to the hospital at Melagarh and he was then referred to the hospital at Agartala where he remained admitted from 01-10-1994 to 29-10-1994. According to the allegations made in the claim petition, thereafter the claimant was again admitted in the Melagarh Hospital from 29-10-1994 to 28-11-1994.

2. The driver of the jeep was not named and only the owner of the jeep was

named as Abdul Matab Gaji and the National Insurance Company Limited was named as the insurer of the vehicle. The owner did not file any reply to the claim petition and the Insurance Company filed a reply and one of the main objections taken was that there were no particulars of any insurance policy and, therefore, the Insurance Company denied that the vehicle was insured with it. The Insurance Company also denied that any occurrence had taken place as alleged in the claim petition.

3. The claimant in support of his claim filed an affidavit and the affidavit is virtually a copy of the averments made in the claim petition. The claimant was not even cross-examined since none appeared for the respondents. Normally in such a case, the statement of the claimant should have been believed. However, there are certain facts which are peculiar to the facts of this case. According to the claimant, he was traveling in some other jeep. He gives the number of the jeep which allegedly dashed against him, but he has not given the number of the jeep in which he was traveling. He has not even given the names of the driver of either of the jeeps and has not named any of his co-passengers in the jeep though admittedly according to him, there were co-passengers.

4. The claimant led evidence and filed documents. One of the documents is the discharge certificate issued by the G.B. Hospital. The discharge certificate shows that the claimant was admitted in hospital on 01-10-1994 and discharged therefrom on 29-10-1994 and that the claimant had suffered some fracture injuries. There is no mention in this discharge certificate that the claimant had suffered injuries in a road traffic accident. The normal practice in the State of Tripura is that when an injured person informs the Doctor that he has received injuries in an accident, it is mentioned that the injuries were received in RTA (road traffic accident).

5. The claimant also alleges that after his discharge, he was again readmitted in the Melagarh Hospital. One fails to understand why a person who is discharged from one hospital would get admitted in another hospital. The claimant has also produced a discharge certificate of the Melagarh Hospital where he remained admitted from 29-10-1994 to 28-11-1994 for post operative treatment of his ankle. Even in this discharge certificate, there is no mention of any road traffic accident. No FIR was lodged immediately at the time of the occurrence or at the time when the claimant was firstly taken for treatment to Melagarh Hospital, then admitted at the hospital at Agartala and lastly admitted at the hospital at Melagarh. Even after his discharge, the claimant did not file any complaint and the first complaint in this regard was filed with the police on 10-01-1995, i.e. 3 (three) months and 10 (ten) days after the incident without giving any reason as to why such complaint was not filed earlier. This complaint has not been filed by the complainant, but by his brother who has not been examined in Court and even in the FIR which has been filed no explanation has been given with regard to the delay in filing the FIR. It is also obvious from the record that the injury which the claimant had received was an injury in the ankle. Therefore, he was

not senseless or unconscious.

6. The FIR also makes very interesting reading and clearly indicates that this is a fabricated document. The FIR has been lodged by Samsu Miah, brother of the claimant Safique Miah. The first part of the complaint reads that when the younger brother of the complainant was returning from Sonamura to his house, the jeep in question hit them from behind and hit his brother's left leg. Thereafter, the complaint proceeds to say that "the boys of Grantali got me admitted in the Melagarh Hospital and I had been undergoing treatment at G.B. Hospital for 11/2 months". Why would the brother get treatment done at G.B. Hospital for injuries received by the complainant?

7. According to the FIR, some meeting was held in the village conciliation committee and the respondent-owner of the vehicle agreed to bear the entire expenditure of the treatment, but later when he disagreed, then the FIR was filed. When the complainant stepped into the witness box, he did not utter a word in this regard. There is no mention of any such meeting in his statement. If such meeting had taken place, why could not the members of the village conciliation committee be called as witnesses in the case.

8. Normally, this Court is very liberal while appreciating evidence under the M.V. Act, but unfortunately my experience of one year in the State of Tripura is that there is a very high percentage of totally false claims being lodged. While the Court must be liberal with those who have actually suffered injuries in motor vehicle cases and must be liberal in awarding compensation to them, the leniency of the Court should not be permitted to be taken advantage of by unscrupulous litigants who file false cases to claim compensation.

9. In this case, the claimant, as pointed out above, did not name or examine the driver of the jeep in which he was traveling or his co-passengers. The names of the persons who shifted him to hospital were not disclosed. The names of the members of the village conciliation committee who brought out some sort of settlement, as stated in the FIR, have not been disclosed nor have those persons been examined. There is no copy of any insurance policy on record. Who was the driver of the vehicle is also not mentioned. How can the Insurance Company be held liable to pay compensation when the name of the driver is also not mentioned? In case, the name of the driver is mentioned, the Insurance Company can raise a plea as to whether the driver held a valid driving license or not. It is apparent that all these things were not mentioned only with the intention that the Insurance Company has no opportunity of examining any person to find out the truth.

Though the claim petition was dismissed by the Motor Accident Claims Tribunal holding that the claimant had miserably failed to prove that the accident had taken place, even during the course of this appeal no application has been filed by the claimant to lead additional evidence to examine any relevant witnesses.

10. In this view of the matter, I have no hesitation in coming to the conclusion

that the learned Tribunal was fully justified in dismissing the claim petition.

11. The appeal is accordingly dismissed. No order as to costs. Send down the lower court records forthwith.