

(2014) 09 KAR CK 0129

In the Karnataka High Court

Case No : Miscellaneous First Appeal Nos. 31180 and 31181/2012 (MV)

Veeranna

APPELLANT

Vs

Sangappa

RESPONDENT

Date of Decision : 03-09-2014

Acts Referred:

Citation : (2014) 09 KAR CK 0129

Hon'ble Judges : S.N. Satyanarayana, J;N. Ananda, J

Bench : Division Bench

Advocate : Prakash Yeli, Advocate for the Appellant; S.S. Aspathi and Sanjay M. Joshi, Advocate for the Respondent

Final Decision : Dismissed

Judgement

S.N. Satyanarayana, J.—Claimants in MVC. No. 143/2010 and 156/2010 have come up in these two appeals impugning the judgment dated 30.09.2011, in dismissing the aforesaid claim petitions. Admittedly, the appellants herein were the claimants in the aforesaid two claim petitions which are filed for the death of Santosh Arali and Daresh Mohiddin.

2. The case of the claimants is that on 16.01.2006, the deceased persons had visited Amba Matha fare and thereafter they were returning to. Karatagi village of Gangavati Taluk on a motorcycle bearing No. KA-37/H-7160. It is stated that on the way back to home, the said motorcycle met with an accident resulting in death of Santosh Arali. It is stated that Daresh Mohiddin who was injured was taken to hospital and during the treatment he was passed away. The complaint with reference to the accident was filed by the brother of deceased Santosh Arali, immediately after the accident and the statement of concerned persons were also recorded. With reference to said complaint registered in Crime No. 16/2006, the police after investigation filed "C" report. Challenging the said "C" report, protest petition was filed by the complainant Mallikarjun. The said protest petition was supported by the statement of alleged eyewitnesses. Based on the evidence in protest petition, the learned Magistrate took cognizance and direction

was given to the police for registering the criminal case in C.C. No. 289/2009 against the owner and driver of the tractor which was said to have caused accident. The complaint was registered against the driver of the tractor bearing No. KA-36/TA-1950, as if the accident was caused by him. On this basis, these two claim petitions were filed.

3. Subsequent to registering of criminal case in C.C. No. 289/2009, the claim petitions were filed by the parents of deceased Santosh Arali and Daresh Mohiddin. In the said proceedings, several documents were filed and relied upon by them to substantiate that the accident has taken place due to rash and negligent driving by the driver of the tractor bearing No. KA-36/TA-1950 belonging to second respondent and driven by first respondent in both the claim petitions. In support of their claim, three eyewitnesses were examined as PWs. 1 to 3. Out of them, PW. 1 was the father of Daresh Mohiddin, PW. 2 was the father of Santosh Arali and PW. 3-Shambanna was the eyewitness to the accident. In the said claim petitions, they have also produced 20 documents basically to substantiate the accident and income of both deceased persons to claim compensation in the said proceedings. In the proceedings before the Tribunal, the claim was contested by the first respondent-Insurance Company, which had insured the vehicle which was said to have caused the accident. In the said proceedings, the Insurance Company has relied upon "C" report which was filed by the police at the initial stage and also copy of protest petition and evidence of alleged eyewitnesses in the proceedings before the Magistrate for consideration of protest petition as well as the evidence which was recorded in criminal proceedings in C.C. No. 289/2009, which reveal the game plan of claimants before the Tribunal.

4. The Tribunal having framed issues and on appreciation of the evidence available on record has given a finding to the effect that the entire proceedings commencing from filing of protest petition and registering C.C. No. 289/2009 and consequently filing of these two claim petitions seeking compensation for the death of deceased Santosh Arali and Daresh Mohiddin is nothing but handiwork of the claimants with the support and assistance of alleged eyewitnesses as rightly observed by the Tribunal. The eyewitness to the accident who supported the protest petition filed by complainant Mallikarjun who is the brother of deceased Santosh Arali have remained away from the criminal proceedings and they have not supported the prosecution in trying to bring first respondent in both the claim petitions for having caused the accident, resulting in the death of Santosh Arali and Daresh Mohiddin. It is also observed by the Tribunal that the evidence with reference to occupation and as well as income of Daresh Mohiddin is also fabricated for the purpose of claim petition filed by the respondents herein. With detailed discussion on the evidence of each of the witnesses and also the documents relied by the claimants and after meticulous appraisal of the same finding was given by the Tribunal to the effect that the claim petitions are false and based on concocted and fabricated documents with sole intention of securing compensation to the parents of deceased Santosh Arali and Daresh Mohiddin

with the assistance of respondent Nos. 1 and 2 and consequently dismissed the claim petitions.

5. On going through the judgment impugned, this Court find that the finding of the Tribunal with reference to the pleadings, evidence and documents available on record, no grounds are made out to assail the finding of the Tribunal to hold that the accident has taken place due to rash and negligent driving by first respondent/driver of tractor bearing No. KA-36/TA-1915 much less its involvement in the accident and consequently to accept that claimants are entitled to compensation for the death of Santosh Arali and Daresh Mohiddin in the said accident.

6. In that view of the matter, this Court find no grounds to consider these two appeals. Accordingly, same are dismissed