

Ummer. Vs. Uneer Kalathugal.

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Court : Kerala

Decided On : Nov-25-2010

Judge : A.K.Basheer; P.Q.Barkath Ali, Jj.

Acts : Code of Criminal Procedure (CrPC) (Cr.P.C) - Section 156(3)

Appeal No. : MACA.No. 2083 of 2010

Appellant : Ummer.

Respondent : Uneer Kalathugal.

Advocate for Pet/Ap. : SMT.T.V.NEEMA, Adv.

Judgement :

1. Appellant is the claimant before the Motor Accidents Claims Tribunal. He sought compensation from the respondents on the allegation that he sustained certain injuries in a road traffic accident when he was knocked down by a two wheeler that was being driven by respondent No.1.

2. The case of the appellant was that he was walking along Areecode -Mukkam road at about 10 O' clock in the morning on October 13, 2006 when the offending vehicle which came at a high speed and in a rash and negligent manner knocked him down. The said vehicle was owned by respondent No.2 and insured with respondent No.3. Immediately after the accident, he was taken to KMH Hospital at Manjeri from where he was referred to G.Kuppuswamy Naidu Memorial Hospital in Coimbatore. Appellant alleged that he sustained several injuries including fracture

of lateral tibial condyle (left). He claimed a total sum of Rs. 1,50,000/- towards compensation.

3. The Tribunal, after considering the documentary evidence adduced by the appellant and also the contentions raised by respondent No.2 in its counter statement, found that there was no satisfactory evidence to hold that the appellant had been involved in a road traffic accident as alleged by him. Accordingly, the claim petition was dismissed. The above award is impugned in this appeal.

4. As has been noticed already, the specific case of the appellant was that he was knocked down by the alleged offending vehicle on the Areecode-Mukkam road in Malappuram district. But admittedly, he underwent treatment in connection with the injuries sustained by him in a hospital in Coimbatore. It is contended by the learned counsel that the appellant was initially admitted in a local hospital at Manjeri from where he was referred to the hospital in Coimbatore. But Ext.A2 wound certificate issued by the hospital at Coimbatore does not refer to any referral made by any other hospital; leave alone the hospital at Manjeri. It is true, in Ext.A2 it has been mentioned that the appellant had informed the hospital authorities that he was initially taken to KMH hospital at Manjeri. If in fact the hospital authorities at Manjeri had referred the appellant for better treatment to the hospital in Coimbatore, there must necessarily have been a referral report. No such document had been produced.

5. It is true that appellant had produced Ext.A5 bill for purchase of three items of medicine from KMH Hospital at Manjeri for a total sum of Rs. 56/-. It cannot be believed that if the appellant had suffered fracture and such other serious injuries as alleged by him, the hospital authorities at Manjeri would not have given him some essential first aid or such other treatment. Still further, Ext.A5 will show that appellant had got himself admitted in the hospital at Coimbatore only on the next day viz. October 14, 2006. There is absolutely no explanation why the appellant chose a hospital at such a far away place, when indisputably various other centres were available in and around Manjeri , the nearest being the Medial College Hospital at Kozhikode and also at Thrissur. There is absolutely no explanation on the side of the appellant as to why he chose to go to Coimbatore and that too on

the next day.

6. There is yet another aspect of the matter. It is the admitted position that the local police did not register a crime in connection with the alleged accident either on the day of the accident or any day immediately. It is true that the police did in fact register a crime as could be seen from Ext.A1, copy of the FIR. But this crime was registered admittedly at the behest of the appellant himself who filed a private complaint more than a month later before the local criminal court. Obviously, the said complaint might have been referred to the police under Section 156(3) of Code of Criminal Procedure and consequently the crime was registered. The copy of the complaint, which is available on record, does not give any clue as to why the appellant had not requested the KMH hospital authorities to report the matter to the police. Ext.A5 medical bill shows that he was in the said hospital till 4 O' clock in the evening. But still he did not choose to give any information to the police.

7. Keeping in view the above facts and circumstances, we do not find any material illegality or irregularity in the finding entered by the Tribunal. No interference is warranted with the impugned award. The appeal fails and it is accordingly dismissed.

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