

THE HON'BLE SRI JUSTICE K.C.BHANU  
M.A. C.M.A. Nos. 3714 of 2008 and 385 of 2011

COMMON JUDGMENT :

1. Since both the appeals arise out of the same order, they are being disposed of by this common judgment.

2. There appeals are directed against the order dated 27.09.2006 in M.V.O.P. No.504 of 2005 on the file of the Chairman, Principal Motor Accident Claims Tribunal-cum-District Judge, Warangal. The claimant filed MACMA No.3714 of 2008, whereas the insurance company filed MACMA No.385 of 2011. By the impugned order, the claimant was awarded compensation of Rs.1,20,000/- with interest and costs, for the injuries sustained by him in the motor vehicle accident occurred on 1.10.2004 in the outskirts of Nekkonda village.

3. It is the contention of the learned counsel for the appellants/ insurance company that the medical certificate produced by the claimant is a bogus one, and that a case a has been registered by the Central Bureau of Investigation, and the Doctor, who allegedly issued that certificate, was arrested by the officials of Central Bureau of Investigation on the allegations of giving false certificates; that, the Doctor as well as the Advocate who appeared for the claimant before the Claims Tribunal, have played fraud on the court in getting a decree for compensation; that, certain subsequent events came to

the knowledge of the insurance company after disposal of the Original Petition, and so, the company has not taken such a plea when the matter was pending before the Claims Tribunal and therefore, he prays to remand the matter to the Tribunal for giving opportunity to the appellants to lead relevant evidence in this regard.

4. On the other hand, the learned counsel for the claimant contended that in this appeal also, the insurance company has not taken any plea that fraud has been played by the claimant and in the absence of any plea, question of remand does not arise, and therefore, he prays to dismiss the revision.

5. It is not in dispute before this Court that in respect of certain illegalities alleged to have been committed by the Dr.P.Surender Reddy, Central Bureau of Investigation registered a case against him for the offences punishable under Sections 367 and 471 of the Indian Penal Code, 1860. There cannot be any dispute that if the certificate issued by the Doctor is found to be a false or fake or fabricated or forged or bogus certificate, the claimant is not entitled to any compensation. But, the said fact has to be decided by the Claims Tribunal basing on the additional pleading that may be taken by the insurance company. Therefore, the contention of the learned counsel for the appellants can be accepted because this plea had not been taken earlier as the insurance company came to know about the registration of the case

against the Doctor, subsequent to disposal of the Original Petition. In view of seriousness of the matter, where the claimant as well as the advocate appeared for the claimant in the Claims Tribunal are alleged to have hand in glove with police as well as the Doctor, it has to be looked into by the Claims Tribunal basing on the additional pleading and evidence that may be taken and proved by adducing evidence by the insurance company.

6. Accordingly, the impugned order dated 27.09.2006 in Original Petition No.504 of 2005 on the file of the Chairman, Principal Motor Accident Claims Tribunal-cum-District Judge, Warangal is set aside, and the matter is remanded to the Claims Tribunal. The insurance company is permitted to take additional plea with regard to the aspects that took place after disposal of the Original Petition, and the claimant is also entitled to adduce rebuttal evidence. The Claims Tribunal shall dispose of the Original Petition afresh in accordance with law, after giving opportunity to both the parties, within a period of four months from the date of receipt of a copy of this Judgment.

7. The M.A.C.M.As. are, accordingly, allowed. No costs.

-----  
(K.C.Bhanu, J.)

28.2.2011  
DRK

THE HON'BLE SRI JUSTICE K.C.BHANU

M.A. C.M.A. Nos. 3714 of 2008 and 385 of 2011

28.2.2011