



1

MA-565-2022

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK AGARWAL

ON THE 13th OF MARCH, 2025MISC. APPEAL No. 565 of 2022*SHRIRAM GENERAL INSURANCE COMPANY LTD.**Versus**RAKESH VALTIYA AND OTHERS*

.....
Appearance:

Shri Rakesh Jain - Advocate for the appellant.

Shri Kapil Patwardhan - Advocate for the respondent No.1 claimant

.....

ORDER

This miscellaneous appeal under Section 173(1) of the Motor Vehicles Act, 1988 is filed by the insurance company being aggrieved of the award dated 09.03.2021 passed by learned 7th Additional Motor Accident Claims Tribunal, Jabalpur in MACC No.2715/2017 (*Rakesh Valtiya Vs. Hemraj Yadav and others*).

The claimant has also filed cross-objection for enhancement.

2, Shri Rakesh Jain reading from paragraph 15 of the impugned award submits that the claimant - Shri Rakesh Valtiya has admitted in paragraphs 6 and 7 of his cross-examination that he had never visited Victoria hospital. On asking in paragraph 7 he has stated that certificate as is enclosed by the claimant as disability certificate which is available on record as Ex. P/130 was obtained by his counsel. It is thus submitted that Dr.Sharad Dwivedi never examined the patient and issued disability certificate, which is a professional misconduct. It is also submitted that Dr. Balkrishan Dang is



examined as Claimant Witness No.3 and he stated that he was working at Suvidha Hospital, whereas most of the treatment papers are from Sudha hospital and not of Suvidha Hospital. It is submitted that discharge card from Suvidha Hospital is a fabricated document obtained to bring opinion of Dr. Dang on record, in as much as, Ex. P-8 shows that date of admission as 28/06/2018 and date of discharge as 2/07/2018 whereas the bill which has been enclosed as Ex. P-10 interestingly shows the date of admission as 28/06/2018 at 3:40 P.M. and date of discharge as 2/06/2018 at 6:00 P.M. and this is a glaring irregularity demonstrating that the prescriptions were prepared in a forged and fabricated manner. Even the documents Ex. P-117, P-118, P-119, P-120, P-121 and P-122 do not give confidence as their correctness. It is submitted that claimant himself has admitted that he was firstly taken to a Government hospital at Harrai, District - Chhindwara from where he was referred to Narsinghpur and after showing himself at Government hospital, Narsinghpur, he was referred to Sudha hospital, Golbazar, Jabalpur. After being discharged from Sudha hospital, he had gone back to Chhindwara, where he remained in Government hospital Chhindwara. Thereafter, he again came back and admitted at Sudha hospital, Jabalpur. He has again stated that he had never visited Victoria hospital. In paragraph 7, he has clearly stated that he never visited Victoria hospital for any work. He further stated that disability certificate was got prepared by his counsel. He stated that no X-ray was conducted on him. Thus, it is submitted that it is a case of fraud, perpetuated by a team of doctors in connivance with the claimant and his counsel and, therefore, appropriate note be taken of



these facts and impugned award be set aside.

3. Shri Kapil Patwardhan submits that he has filed cross objection under Order 41 Rule 22 CPC seeking enhancement as meagre amount has been awarded under different heads like pain and suffering, etc. On oral prayer, delay in filing the cross-objection is condoned.

4. After hearing learned counsel for the parties and going through the record, when this Court wanted to know from Shri Kapil Patwardhan that there are several bills of purchase of medicines from one 'Maa Pharmacy' starting from Exhibit P-11 to Exhibit P-108 and none of them bears GST number or seal of Maa Pharmacy, then how these bills are admissible in evidence, He has no answer to this query of the Court.

5. It appears that Tribunal overlooked this fact while accepting a fact that the disability certificate as was produced by the claimant and as enclosed along with the record as Exhibit P-130 is not worthy of its consideration.

6. Thus, two things emerge, one that Dr. Sharad Dwivedi had issued a forged disability certificate while acting as a member of District Medical Board. Exhibit P-130 contains signature of Dr. Sharad Dwivedi only whereas it is issued on official document of Seth Govindas Jila Chikitsalaya. It does not contain any endorsement of District Medical Board. Thus, this certificate is apparently forged and as has been stated by the claimant, was obtained by his counsel without subjecting him to any investigation or examination. In the cross-examination though Dr. Sharad Dwivedi has stated that he visited patients and see them outside the hospital in their mode of convenience if they are not in a position to walk but when the claimant himself has stated



that he never visited Victoria Hospital, then it was not possible for Dr. Sharad Dwivedi to have even seen him outside the hospital. Therefore, the Claims Tribunal has rightly rejected this certificate. But with a view to curtail such corrupt practices, it is necessary that strict action be taken against the delinquent. Therefore, this certificate and impugned award is referred to Principal Secretary, Public Health and Family Welfare to institute a departmental enquiry against Dr. Sharad Dwivedi, if he continues in service, for imposing major penalty, inasmuch as, this act of playing fraud with the system and furnishing false and forged medical certificate without examining the patient cannot be allowed to continue. Accordingly, after disposal of this case, original record of the certificate after retaining photocopy of the same along with a certified copy of the award and a copy of this order be sent to the Principal Secretary for taking action against Dr. Sharad Dwivedi.

7. Matter in regard to Dr. Balkrishan Dang is also required to be referred to Medical Council of India for taking appropriate action against him as he has a criminal history for producing false and fabricated certificates which according to Mr. Jain had landed him in a prison.

8. Let these certificates and papers be referred to Medical Council of India for taking appropriate action against Dr. Dang, in as much as, he is *prima facie* guilty of producing false and fabricated papers including treatment papers with a view to give benefit to the claimant.

9 . Further, direction is also issued to the Director General of Police to constitute a high level team in the form of S.I.T. to investigate the cases of



false implication where three parties are necessarily in connivance namely claimant, police, officials of the region and the concerned Doctors. Besides this, sometimes claimants act at the behest on provocation of their counsel who are practicing in the field of motor accident claim cases or in the field of criminal law.

10. Thus, S.I.T. be requested to examine these frauds with the system which are being perpetuated day in and day out causing dent to the credibility of the judicial system.

11. Similarly copy of this order along with the photocopy of the record of the Claims Tribunal be sent to the State Bar Council for taking action against the counsel for the claimant who appeared before the Tribunal namely, Shri Manoj Shivhare in obtaining a forged and fabricated medical certificate without subjecting the claimant to any examination. State Bar Council will take action against Shri Manoj Shivhare, Advocate within six months from the date of receipt of certified copy of this order, which Shri Rakesh Jain, Advocate will furnish to the Chairman of Madhya Pradesh State Bar Council, within seven days from today.

12. As far as Dr. Balkrishna Dang is concerned, his evidence is also false. He never worked in Sudha hospital. The claimant never went to Suvidha hospital and he was never admitted in Suvidha hospital. When claimant himself said that he never went to any hospital except three Government hospitals, namely, at Harrai, Narsinghpur and Chhindwara, besides Sudha hospital, Jabalpur, then the bills of Suvidha polyclinic appears to be forged documents and are required to be discarded. Thus, a sum of Rs.24,000/-



which is added towards Exhibit P-10 is required to be deducted. Similarly, bills from Ex P-11 to Ex.P-108 are also required to be deducted from the amount awarded by the tribunal, inasmuch as, these bills cannot be said to be authentic and genuine without there being any seal or GST/Sales Tax number. Shri Rakesh Jain submits that the claimant has produced bills of Rs.91,607/- for purchase of medicines from Maa Pharmacy.

13. In view of such facts, so far as the appeal of the insurance company is concerned, since there is FIR (Ex.P-1) available on record which was lodged on 10.10.2017 soon after the claimant meeting with an accident against Pickup vehicle bearing registration No. MP20-GA-2208, the factum of accident cannot be disputed.

14. Since fact of accident is not disputed, compensation under the head of loss of income at the rate of Rs.6,000/- per month for a period of three months i.e. Rs.18,000/- cannot be said to be disproportionate. The tribunal has awarded only Rs.5,000/- under the head of attendant which is enhanced to Rs.18,000/- and thus, there will be addition of Rs.13,000/- under the head of attendant. Similarly, under the head of nutritious diet on the same reasoning there will be addition of Rs.13,000/-. The tribunal has awarded Rs.10,000/- under the head of pain and suffering which is enhanced to Rs.25,000/- and another sum of Rs.25,000/- is awarded under the head of fracture. Besides this a sum of Rs.5,000/- is awarded under the head of transport. Thus, net enhancement comes out to Rs.71,000/-. But there will be deduction of bills of Rs.24,000/- and also Rs.99,053/- paid on account of inappropriate medical bills issued by Maa Pharmacy without any GST



number/Sales Tax Number and without there being a seal of pharmacy, so also on the prescriptions of Dr. Dang vide Ex. P-123 to P-129. Therefore, those bills when deducted, the difference amount comes to Rs.52,053/- (Rupees Fifty two thousand and fifty three only), which requires to be deducted from the amount awarded by the learned Claims Tribunal.

15. At this stage, it is also necessary to direct the Collector, Jabalpur, who in turn will direct the Drug Inspector to carry out inspection of Maa Pharmacy and find out how Maa Pharmacy is entitled to issue bills without GST/Sales Tax Number.

16. Similarly, bills pertaining to treatment in the hand of Dr. Dang totaling Rs. 7,446/- vide Ex. P-123 to P-129 are also not admissible. Thus, a sum of Rs. 52,053/- is required to be deducted from the total amount of compensation totaling Rs. 2,74,096/-

17. Thus, only a sum of Rs. 2,22,043/- (Rupees Two lakhs twenty two thousand and forty three only) will be payable in favour of the claimant.

18. In the above terms, the appeal filed by the insurance company and the cross-objection preferred by the claimant are disposed of. Record of the Claims Tribunal be sent back.

19. Other terms and conditions of the award shall remain intact.

(VIVEK AGARWAL)
JUDGE