

SMT. JUSTICE T.RAJANI

MACMA No.5452 of 2008

JUDGMENT:

This appeal is preferred by the appellant, who is the claimant before the Court below, assailing the order of the District Judge, Khammam, passed in OP. No.521 of 1991 on 27.01.1994, on the ground that the Court below did not award adequate compensation, in spite of the fact that the claimant sustained amputation of right leg, upto thigh.

Heard the learned counsel on either side and perused the material on record.

The claimant lost his leg in the motor accident and made a claim of Rs.1,00,000/- as compensation but the Court below awarded only Rs.65,000/- as compensation. The claimant is aged 8 years, at the time of accident. The court below, by considering the case law on the issue, awarded Rs.50,000/- as compensation apart from Rs.15,000/- towards pain and suffering and medical expenses.

The learned counsel for the claimant contends that in case of a person, who does not have earnings, notional income has to be taken as specified in the II Schedule of the Motor Vehicles Act, 1988. As per the II Schedule, Rs.15,000/- per annum has to be taken as notional income for non earning persons and therefore, the same can be taken in this case also. 45% of disability stated by the P.W.2 does not require any disbelief as it is a case of amputation and as such, Rs.6,750/- would be the loss of annual income and the same when is multiplied by 15, which is multiplier relevant for the age of the claimant, as per **Sarala Varma Vs. Delhi Transport Corporation**¹, would be Rs.1,01,250/-. The same is awarded towards loss of future income to the claimant. The Court below awarded Rs.15,000/- towards pain and suffering, which can be

¹ (2009) 6 SCC 121

enhanced by another Rs.5,000/-, considering that it is case of amputation. The Court below did not award any amounts towards transportation. The claimant is likely to incur some expenditure towards special transportation while going to and from the hospital, as it is a case of amputation. Hence, Rs.10,000/- is awarded towards transportation and other incidental expenditure. Medical bills, which are filed by the claimant, are for small amounts. Hence, Rs.1,000/- can be awarded towards medical expenditure. The claimant is stated to be a student and the injury might have resulted loss of studies at least for two or three months. Hence, Rs.2,000/- is awarded towards loss of studies. Considering that it is a case of amputation, resulting in loss of future amenities of life, another Rs.20,000/- is awarded under the said head. Hence, in all, the compensation amount stands to be Rs.1,54,250/-, which can be rounded off to Rs.1,55,000/-.

This award shall relate back to the date of the decree and the enhanced amount shall carry interest at the rate specified and from the time indicated in the award of the Court below.

In the result, the appeal is allowed with proportionate costs. Miscellaneous petitions, if any, pending consideration, shall stand closed in consequence.

JUSTICE T.RAJANI

Date: 09.11.2017
LSK