

SMT JUSTICE T. RAJANI

M.A.C.M.A. No.1121 of 2008

JUDGMENT:

This appeal is preferred by the appellant, who is the claimant before the Court below, assailing the judgment of the Additional District Judge, Hindupur in O.P. No.126 of 2006 dated 11.12.2007 on the ground of inadequacy of compensation.

2. Heard both the counsel.

3. Learned counsel for the appellant submits that the Court below took the notional income of the claimant as Rs.25,000/- per annum, which is on lower side, though the claimant was working as handloom weaver and he is aged about 27 years. As any able bodied person would be able to earn at least Rs.3,000/- per month there need not be any demur in taking the income of the claimant as Rs.3,000/- per month.

4. The disability of 30% taken by the Court below is on proper appreciation of the evidence. There was an inconsistency between the evidence of PWs.4 and 5, who are the doctors examined by the claimant, to prove the disability. PW.5—Doctor, who treated the claimant, stated that the claimant is well and PW.4, doctor who examined the claimant, only for assessment of disability, stated that there is 45% disability. Hence the evidence of PW.5 is not

credible and the approach of the lower Court cannot be found fault with.

5. However, considering the monthly income of the claimant as Rs.3,000/- and taking 30% as disability would result in loss of Rs.900/- per month and Rs.10,800/- per annum. The multiplier '17' which is taken by the lower Court is suitable for his age and if applied, it would come to Rs.1,83,600/-. Hence, the same is awarded in the place of Rs.1,27,500/- awarded by the lower Court.

6. The other contention is with regard to refusal of lower Court to grant medical expenditure as evidenced by Ex.A10. The Court did not rely on Ex.A10 because of the failure of the claimant to produce the account books of the hospital. In my considered opinion, in a beneficial legislation, such an approach is not warranted. When there is no doubt created about the medical bills and in view of the injuries and the nature of treatment, there need not be any reason to disallow the claim of the medical expenditure. Hence, the amount under Ex.A10 which is Rs.93,103/- is awarded under the head of 'medical expenses'. The award of the lower Court stands modified to the extent indicated above.

7. Hence, in all, the claimant is entitled to an enhanced compensation of Rs.56,100/- (loss of earnings) + Rs.93,103/- (medical bills) = Rs.1,49,203/- rounded off to Rs.1,49,200/- and

the rest of the award is left uninterfered with. This award shall relate back to the date of decree and the enhanced compensation awarded shall carry interest at the rate specified and from the time indicated in the award by the Court below.

8. Accordingly, the appeal is partly allowed with proportionate costs. As a sequel, the miscellaneous applications, if any, shall stand closed.

Date:05.10.2017
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T. RAJANI, J

