

SMT JUSTICE T. RAJANI

MACMA No.279 of 2008

JUDGMENT:

This appeal is preferred by the appellant, who is the claimant before the tribunal below, assailing the award of the III Additional District Judge, Anantapur in OP.No.203 of 2006 dated 04.06.2007 on the ground that the tribunal failed to see the disability of the appellant and awarded unreasonable compensation. The tribunal failed to appreciate the evidence of P.Ws.2 and 3. The tribunal without seeing the age of the appellant and that he was an expert in Horticulture Cultivation, did not consider the income as Rs.7,500/- The tribunal also did not consider Exs.A3 and A8, wound certificate and medical bills respectively and failed to see that the appellant was disabled to do his cultivation.

2. At the hearing, counsel for the appellant appeared and counsel for the respondent was not present.

3. The award of the tribunal shows that the income of the appellant was taken as Rs.2,250/- per month though the claim of the appellant was that he was earning Rs.7,500/- per month; but since there was no supporting evidence, except his own testimony, the tribunal took the income as Rs.2,250/- per month. But in normal course, in the absence of any evidence with respect to income of a person, Rs.3,000/- is taken as his monthly income. Hence, Rs.3,000/- can be taken as the monthly income of the appellant.

4. The disability, as stated by P.W.3, is 15%. As the income of the appellant is taken at Rs.3,000/- per month, the disability of 15% would come to Rs.450/- per month and Rs.5,400/- per annum. The age of the appellant is stated to be 20 years at the time of the accident, which is not seriously disputed by the respondent and the multiplier relevant for the age of appellant, as per the decision of the Supreme Court in SARLA VERMA v. DELHI TRANSPORT CORPORATION¹ is 18. Hence, the appellant would be entitled to compensation of Rs.5,400/- x 18 = Rs.97,200/- towards loss of future income.

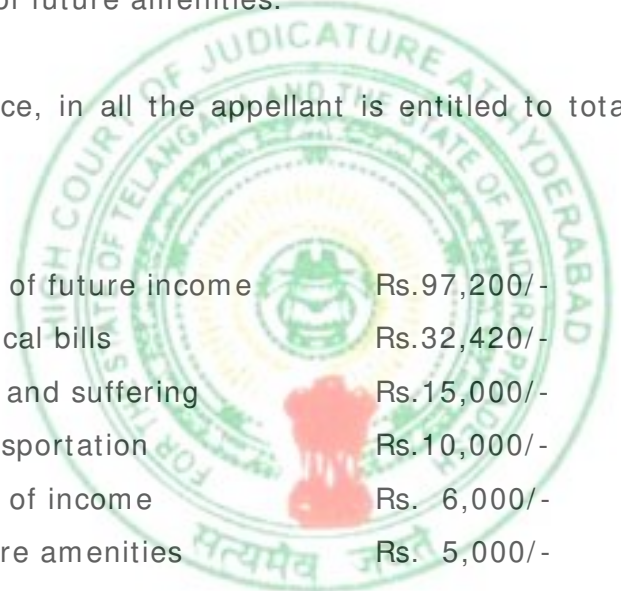
5. The appellant contends that the tribunal did not consider the medical bills on the ground that P.W.3 did not speak about Ex.A8 medical bills. A perusal of the judgment of the tribunal shows that considering that P.W.3 did not speak about the medical bills under Exs.A5 and A8, the tribunal did not award the amount covered by the said medical bills. The cross-examination of P.W.1 shows that there is no suggestion given by the respondent that the medicines reflected by the medical bills are not relevant to the treatment of the appellant for the injuries sustained by him in the accident. Hence, there is no reason to disallow the amount under the said medical bills, which is Rs.32,420/-. Hence, the said amount is granted to the appellant.

6. The tribunal also did not grant any amount towards pain and suffering caused by the injuries. Hence, considering that the appellant sustained fracture injury to his lower right leg, Rs.15,000/- is awarded towards pain and suffering. The tribunal also did not award amount

¹ (2009) 6 SCC 121

towards transportation and other incidental expenditure. For the reason that the appellant sustained fracture on the right leg, it would have necessitated special transportation while going to and from the hospital. Hence, a sum of Rs.10,000/- is awarded towards transportation and other incidental expenses. The injuries might have also disabled the appellant from attending to his work at least for a period of two months. Hence, Rs.3,000/- x 2 = Rs.6,000/- is awarded under the head loss of income for the period of treatment, rest and recovery. There is no amount awarded towards loss of future amenities. Considering the nature of disability, Rs.5,000/- is awarded towards loss of future amenities.

7. Hence, in all the appellant is entitled to total compensation as under:



1. Loss of future income	Rs.97,200/-
2. Medical bills	Rs.32,420/-
3. Pain and suffering	Rs.15,000/-
4. Transportation	Rs.10,000/-
5. Loss of income	Rs. 6,000/-
6. Future amenities	Rs. 5,000/-
Total	Rs.1,65,620/-

In the result, the compensation awarded by the tribunal is enhanced from Rs.84,000/- to Rs.1,65,620/-. However, since the appellant made a claim of Rs.1,50,000/-, the compensation amount of Rs.1,65,620/- is restricted to Rs.1,50,000/- only with proportionate costs. This award shall relate back to the date of decree and the enhanced amount shall carry interest at the rate specified and from the time indicated in the award by the Court below.

The civil miscellaneous appeal is allowed. As a sequel,
the miscellaneous applications, if any, shall stand closed.

March 10, 2017
DSK

T. RAJANI, J

