

SMT JUSTICE T. RAJANI

MACMA.No.2216 of 2006

JUDGMENT:

This appeal is preferred by the claimant assailing the judgment of the IV Additional District Judge (Fast Track Court) cum Motor Accident Claims Tribunal, Nizamabad in OP.No.254 of 1999 dated 01.03.2005 on the ground that the tribunal below awarded meager compensation of Rs.5,000/- as against the claimed compensation of Rs.2,00,000/-, which is the result of the restriction of the actual claim of Rs.10,60,000/-.

2. At the hearing, counsel for the respondent is not present and the counsel for the appellant could not offer any explanation for the contradictions and inconsistencies in the evidence put forth by the claimant in the tribunal. The tribunal observed that there is contradiction with regard to the injuries itself. While wound certificate pertains to fracture of right tibia, X-ray, Ex.X2, pertains to left leg of the claimant. Hence, the tribunal was not ready to accept either of the two documents and awarded compensation considering the injuries to be simple in nature.

3. However, a perusal of the complaint shows that the claimant sustained injuries to his legs and he was referred to Government Hospital, Nizamabad and MLC issued by the Nizamabad Hospital shows that the claimant sustained crack fracture of tibia. It appeals to this Court that there is some genuineness in the MLC. Hence, the injuries

can be taken as having sustained on right tibia. Considering the said injury, Rs.15,000/- is awarded under the head pain and suffering.

4. The tribunal observed that the claimant did not file any medical bills for the claim towards medical expenditure of Rs.80,000/- except Ex.A9, bunch of medical bills. But in the back ground of the fact that the claimant sustained fracture injury, it is likely that the claimant would incur some medical expenditure, hence, a sum of Rs.2,000/- is awarded. Considering the said fact, Rs.5,000/- is also awarded towards transportation as the claimant might have required special transportation having sustained fracture on his leg. For the same reasons for which the tribunal did not believe the disability certificate, this Court also does not believe the same. Moreover, except Dr. L. Ramulu, who issued the disability certificate, no other doctor was examined to speak about the disability of the claimant. Hence, I do not find any reason to deviate from the approach adopted by the tribunal. However, some amount towards loss of income during the period of treatment can be awarded as the claimant is stated to be an auto driver and he must have been disabled for at least two months from attending his work. Rs.3,000/- per month can be conveniently taken as his monthly income and Rs.6,000/- is awarded as loss of income during the period of treatment, rest and recovery.

5. The counsel for the appellant requests the Court to take into consideration the expenditure reflected in the bills issued by Pragathi Hospital, Nizamabad, which is to an extent of Rs.5,760/- but it shows Rs.5,000/- as charges of Dr. L. Ramulu. The observation of the tribunal is that Dr. L. Ramulu never treated the claimant and there is

absolutely no evidence put forth that the said doctor treated the claimant. Hence, the said bill on the face of it does not inspire confidence. In all, the claimant is entitled to total compensation of Rs.15,000/- + Rs.2,000/- + Rs.5,000/- + Rs.6,000/- = Rs.28,000/-.

6. In the result, the compensation awarded by the tribunal is enhanced from Rs.5,000/- to Rs.28,000/- 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 in part. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

June 2, 2017
DSK



T. RAJANI, J