

SMT JUSTICE T. RAJANI

MACMA.No.405 of 2006

JUDGMENT:

This appeal is preferred by the appellant, who is the claimant before the Court below, assailing the judgment of the II Additional District Judge, Nizamabad in OP.No.2001 of 2001 dated 23.11.2005 on the grounds that the compensation awarded by the Court below is not adequate and it ought to have granted Rs.3,00,000/- instead of Rs.25,000/-. The Court below erred in not considering the disability certificate issued by the Government doctor wherein the disability sustained by the claimant was assessed at 60%.

2. Heard both the counsel.

3. The judgment of the Court below would show that apart from granting Rs.5,000/- towards pain and suffering and Rs.5,000/- towards medicine and treatment expenditure, the Court below awarded a sum of Rs.15,000/-.

4. The counsel for the appellant contends that Rs.15,000/- was awarded towards injury and hence, the award made under the head pain and suffering is quite unreasonable. But in my opinion, injury by itself does not call for any award of compensation. It is only the consequential pain and suffering and other losses that have to be compensated. Hence, the award of Rs.15,000/- + Rs.5,000/-, which is made towards injury and pain and suffering is considered as adequate. The medical bills, filed by the claimant under Ex.A5 are only to the extent of Rs.2,100/- but the Court below awarded Rs.5,000/- towards medicines and treatment expenditure. Hence, no grievance can be taken as against the said award.

5. However, the Court below did not award any compensation towards loss of income during the period of treatment and recovery. The injury sustained by the claimant is fracture of left lateral malleolus of ankle joint and superficial abrasion of left ankle region. Hence, three months can be taken as the total period of treatment, rest and recovery. The income of the claimant can be taken as Rs.3,000/- per month, as he is stated to be a vegetable vendor and $\text{Rs.3,000/-} \times 3 = \text{Rs.9,000/-}$ is awarded towards loss of income during the period of treatment, rest and recovery. The award also shows that no compensation was awarded towards incidental expenditure like transportation etc. The treatment of the claimant is only conservative, hence, considering the same a sum of Rs.5,000/- can be awarded towards transportation and other incidental expenditure. P.W.2 did not speak about the disability and hence, the Court below rightly did not award any compensation towards loss of future income.

6. Hence, the award of the Court below is modified to the extent indicated above with proportionate costs and the rest of the award is left uninterfered with. 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.

T. RAJANI, J

July 14, 2017
DSK