

SMT. JUSTICE T.RAJANI

MACMA. No.195 of 2008

JUDGMENT:

This appeal is preferred by the appellant, who is the claimant in the lower Court, assailing the award of the XXII Additional Chief Judge-cum-Motor Accidents Claims Tribunal, City Criminal Court, Hyderabad (for short 'the Tribunal') passed in O.P. No.2933 of 2005 on the grounds that the Tribunal ought to have awarded the claimed amount i.e. Rs.2,00,000/-; that it ought to have granted Rs.20,000/- towards past earnings during the treatment period instead of Rs.4,000/- and that it ought to have granted Rs.25,000/- towards pain and suffering. The other grounds are also on the lines of the above grounds seeking to enhance the amounts under each of the heads claimed by the claimant.

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

A perusal of the judgment of the Tribunal shows that Rs.15,000/- was granted under the head of pain and suffering towards the fracture and other injuries. Taking into consideration that the fracture injury is the right ankle and that there are three blunt injuries, this Court is inclined to enhance the award of Rs.12,500/- to Rs.20,000/- towards pain and suffering caused by the fracture to the ankle, while sustaining the award of Rs.2,500/- towards three blunt injuries. The Tribunal took one month as a period of treatment and awarded Rs.4,000/- by accepting the monthly salary of the claimant at the said rate. Fracture being at ankle, in the considered opinion of this Court, would require at least two months for total recovery. Therefore, another Rs.4,000/- is awarded towards loss of earnings during the period of treatment rest and recovery.

The learned counsel for the appellant made an effort to persuade this Court to grant the amount contained in Ex.A-5, medical bills but the Tribunal has appreciated Ex.A-5 in the right perspective based on the evidence of P.W.2, who is the Doctor who treated the claimant. P.W.2 testified about only Rs.2,900/- as being the expenses incurred by the claimant. When the plea of the claimant is not that he took treatment with any other doctor or that Ex.A-5 pertains to the hospital other than the hospital of P.W.2 the plea cannot be accepted. Hence, except to the extent indicated above there is no need to interfere with the award of the Tribunal. Award of the Tribunal stands enhanced by Rs.11,500/- (20,000-12,500=7,500+4,000) making the total award amount as Rs.34,500/-.

In the result, the appeal is partly allowed by modifying the judgment of the Tribunal by enhancing the award amount to Rs.34,500/- (rupees thirty four thousand five hundred only).

The 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 Tribunal.

In the result, the appeal is partly allowed with proportionate costs.

JUSTICE T.RAJANI

Date: 07.04.2017
LSK