

SMT JUSTICE T. RAJANI

MACMA.No.986 of 2012

JUDGMENT:

This appeal is preferred by the appellant, who is the respondent before the Court below, assailing the judgment of the V Additional District Judge, Rayachoty in OP.No.248 of 2008 dated 24.06.2010, on the grounds that the Court below ought to have seen that the accident occurred due to the negligence of the motor cyclist, who was aged 65 years and that the motor cyclist did not possess driving license; the Court below ought not to have taken the disability as 30% and the Court below placed excessive reliance on the FIR, which is brought into existence by the claimant, hence, the judgment of the Court below is liable to be set aside.

2. Heard both sides.

3. A reading of the judgment of the Court below shows that the compensation awarded is adequate and is not, in any manner, excessive. The claimant sustained injuries, one of which is grievous in nature. The Court below awarded Rs.25,000/- towards pain and suffering for the grievous injury and Rs.7,500/- for pain and suffering caused by simply injuries, which cannot be termed as excessive. 30% disability, which was assessed by P.W.2, was accepted by the Court below.

4. At this stage also, the counsel for the appellant is unable to make out any ground for disbelieving the evidence of the said witness,

who is the doctor, who assessed the disability, when the claimant came to him for follow up treatment.

5. The contention that the disability was assessed only after one week after the discharge, does not have any bearing on the contentions of the appellant's counsel as P.W.2, who is the doctor, has considered that the disability is a permanent disability. The cross-examination of P.W.2 does not, in any manner, discredit his competency or the genuineness in the assessment of disability. Hence, there is absolutely no reason to interfere with the award of the Court below with regard to the compensation awarded, by considering the disability as 30%. The other amounts awarded by the Court below are also not excessive. Considering that it was also not clear as to whether medical bills under Ex.A6 are included in Ex.A1 or not, the Court below awarded Rs.50,000/- towards the cost of medicines. The transportation charges claimed at Rs.15,000/- were declined and only Rs.3,000/- was awarded. Hence, seen from any angle, the award of the Court below does not suffer from any excessiveness.

The civil miscellaneous appeal is dismissed. As a sequel, the miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

November 27, 2017
DSK

T. RAJANI, J