SMT JUSTICE T. RAJANI

MACMA No.3587 of 2011

JUDGMENT:

This appeal is preferred by the appellant, who is the claimant before the Court below, assailing the judgment of the XXI Additional Chief Judge cum VII Additional Metropolitan Sessions Judge, Hyderabad in MVOP.No.1165 of 2008 dated 03.09.2011 on the grounds that the Court below did not award adequate compensation and it did not consider the disability as stated by the doctor.

2. Heard the counsel for the appellant. None appears for the respondents.

3. A perusal of the judgment of the Court below shows that no scientific calculation was adopted while assessing the claim. It is a case of amputation of right leg of the claimant up to knee level. The Court below, while observing that the amount under Exs.A9 and A10 medical bills is to the tune of Rs.73,000/-, granted Rs.70,000/- without there being any reason. There need not be any reason to disbelieve the amount under the said exhibits, as it is a case of amputation. Hence, the remaining Rs.3,000/- also need to be granted towards medical expenditure.

4. The Court below without assessing the income of the claimant arrived at a lumpsum figure of Rs.2,00,000/- towards amputation, which cannot be sustained. The disability certificate issued by P.W.2 is to the effect that the disability is 50%. The claimant is stated to be a labourer, earning Rs.6,000/- per month. But absolutely there is no evidence except the self-serving evidence of the claimant himself.

Hence, in the absence of evidence, relying on the decision of the Supreme Court in RAMACHANDRAPPA v. MANAGER, ROYAL SUNDARAM ALLIANCE INSURANCE CO. LTD.[1], Rs.4,500/- can be taken as the monthly income of the claimant and as per the latest decision of the Supreme Court in NATIONAL INSURANCE CO. LTD. v. PRANAY SETHI [Special Leave Petition (Civil) No.25590 of 2014 and batch dated 31.10.2017], 30% has to be the future hike in the income, the claimant being 40 years. Then the monthly would come to Rs.4,500/- + (Rs.4,500/- x 30%= Rs.1,350/- = Rs.5,850/- and 50% of same would come to Rs.5,850/- x 50% = Rs.2,925/- and the annual income would come to Rs.2,925/- x 12 = Rs.35,100/-. The multiplier relevant for the age of the claimant as per the decision of the Supreme Court in SARLA VERMA v. DELHI TRANSPORT CORPORATION[2] is '15'. Hence, the loss of future income would come to Rs.35,100/- x 15 = Rs.5,26,500/-. Apart from the above, following the decision of the Supreme Court in SANJAY KUMAR v. ASHOK KUMAR[3], Rs.1,00,000/- is awarded towards loss of amenities of life.

5. Thus, the compensation of Rs.2,00,000/- (amputation) + Rs.1,25,000/- (future earnings) = Rs.3,25,000/- awarded by the Court below has to be deducted from the loss of future income arrived at by this Court. Hence, Rs.5,26,500/- - Rs.3,25,000/- = Rs.2,01,500/-. The enhanced compensation would then come to Rs.2,01,500/- + Rs.1,00,000/- (loss of amenities) = Rs.3,01,500/-.

[1] 2011 ACJ 2436
[2] (2009) 6 SCC 121
[3] (2014) 5 SCC 330

6. The counsel for the appellant relied on a decision of this Court in ADAM INDUR MUTTEMMA v. RATHO REDDIA[4] in support of his contention that the Court can award more compensation than what is claimed.

7. Hence, the compensation awarded by the Court below stands enhanced by Rs.3,01,500/- with proportionate costs. The rest of the award shall remain unaltered. The award shall relate back to the date of decree and the enhanced compensation awarded 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.

T. RAJANI, J

December 7, 2017
DSK

[4] 2015 (4) ALD 585 (LB)