

THE HON'BLE SMT JUSTICE T. RAJANI

MACMA No.807 of 2008

JUDGMENT:

This appeal is preferred by the appellant, who is the claimant before the tribunal below, assailing the award of the III Additional District Judge, Nizamabad in OP.No.1512 of 2004 dated 20.07.2007 on the ground that the tribunal did not appreciate the fracture injuries and the fact that the appellant incurred huge expenditure towards treatment, transportation charges etc.

2. Counsel for the appellant contends that the tribunal below failed to award medical expenditure incurred by the appellant, which is to the extent of Rs.26,644/-, on the ground that the medicines were not purchased from the premises of the hospital where he was treated.

3. This Court is of the opinion that the said approach of the tribunal would not meet the ends of justice. A patient need not purchase the medicines from the medical shop in the hospital premises. The medical bills, however, are filed before the Court and the respondent did not dispute that the medicines towards which the medical bills were issued did not pertain to the treatment of the appellant for the injuries sustained by him in the accident. Hence, a sum of Rs.26,644/- is awarded to the appellant towards medical expenditure as against Rs.17,641/- awarded by tribunal.

4. The tribunal awarded Rs.5,000/- towards loss of earnings by considering that the appellant would take at least three months to resume to his work. The appellant is stated to be a businessman and

except his own evidence, as P.W.1, he did not adduce any supporting evidence with respect to his income. Hence, Rs.3,000/- can be taken as his monthly income. Hence, the appellant would be entitled to compensation of Rs.3,000/- x 3 = Rs.9,000/- towards loss of income during the period of treatment, rest and recovery.

5. Counsel for the appellant contends that according to the evidence of P.W.2, the appellant requires follow up treatment by regular visits to the hospital and sought the Court to award some amount towards the transportation that would be incurred by the appellant for his visits to the hospital in future. Hence, Rs.10,000/- is awarded towards transportation charges for future treatment of the appellant.

6. The compensation awarded by the tribunal is enhanced as under:

<u>Head</u>	<u>Enhancement</u>
Medical Expenditure:	Rs.26,644/- - Rs.17,641/- = Rs.9,003/-
Loss of earnings:	Rs.9,000/- - Rs.5,000/- = Rs.4,000
Transportation:	Rs.10,000/- - Rs.2,000/- = Rs.8000/-
Total	= Rs.21,003/-

The enhanced amount of Rs.21,003/- is rounded off to Rs.21,000/-. In the result, the appellant is entitled total compensation of Rs.21,000/- + Rs.38,000/- (awarded by tribunal) = Rs.59,000/- 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 disposed of as infructuous.

March 3, 2017
DSK

T. RAJANI, J

