

THE HONOURABLE JUSTICE SMT.T.RAJANI

MACMA. No.778 of 2008

JUDGMENT:

This appeal is preferred by the appellant, who is the petitioner in the lower Court, assailing the award passed by the IV Additional District and Sessions Judge (FTC), Nizamabad in O.P.No.1242 of 2003 on 11.12.2007 on the grounds that the lower Court awarded meagre compensation though the appellant sustained four fracture injuries and that under the other heads also compensation awarded by the Tribunal is very low.

The material on record consists of medical certificate, which is marked as Ex.A-3, which shows four fracture injuries. The evidence of P.W.2 is also available and he testified to the fact that the appellant sustained four fracture injuries and he was advised for admission into the hospital but he refused to get admitted into the hospital and therefore, he was treated as an out patient.

The contention of the counsel for the respondent is that since there was no admission and treatment was only as an out-patient basis, no fracture injuries can be assumed. But the evidence is very clear that an admission is advised for the appellant, which was refused by him.

Hence, this Court without any demur concludes that four fractures are sustained by the appellant. Hence, Rs.15,000/- towards each fracture injury is awarded which comes to Rs.60,000/- in total.

The lower Court has awarded an amount of Rs.2,000/- towards transportation and Rs.1,000/- towards extra nourishment charges which in my considered opinion can be enhanced to Rs.5,000/- together. Avocation of the appellant is stated to be agriculture and mechanism of Jeeps. But no evidence with regard to the income is adduced. Hence Rs.3,000/- can be taken as monthly income of the appellant and

two months can be assumed as the period for treatment and rest and recovery and Rs.6,000/- is awarded towards loss of income during the period for treatment and rest and recovery. In all Rs.71,000/- is awarded, as compensation.

In the result, the appeal is partly allowed by modifying and enhancing the compensation awarded by the lower Court from Rs.18,000/- to Rs.71,000/-.

The interest awarded by the lower Court needs no interference as it is on par with the prevailing rate of interest of Nationalised banks.

As a sequel, miscellaneous petitions, if any, stands closed. There shall be no order as to costs.

Date: 23.02.2017
LSK



JUSTICE SMT.T.RAJANI