

SMT JUSTICE T. RAJANI

MACMA.No.161 of 2006

JUDGMENT:

This appeal is preferred by the appellant, who is the claimant before the Court below, assailing the judgment of the District Judge, Nizamabad in OP.No.1659 of 2001 dated 08.09.2005 on the grounds that the compensation awarded by the Court below is not adequate to the injuries sustained by the appellant and that the Court below ought to have awarded Rs.90,000/- towards medical expenses and it ought to have allowed the OP by granting Rs.3,00,000/- as claimed by the claimant.

2. Heard both the counsel.

3. The claimant is stated to have sustained four injuries out of which three are fracture injuries and one is simple injury being laceration wound over right knee. The Court below awarded Rs.75,000/- towards disability apart from awarding Rs.5,000/- towards pain and suffering. Counsel for the appellant contends that the Court below did not award any amount towards simple injury. In the considered opinion of this Court, the injury by itself does not carry any compensation it is only the consequences ensuing from the said injuries that have to be compensated. Hence, this Court opines that Rs.75,000/- + Rs.5,000/- would adequately compensate the claimant towards all the four injuries. The medical expenditure, to the extent proved by the claimant, was awarded by the Court below. Hence, no error can be found in the judgment of the Court below in that regard.

4. However, as rightly contended by the counsel for the appellant, the Court below failed to take into consideration the time required for treatment, rest and recovery of the claimant and did not award any amount towards loss of income during that period. As per the evidence of the claimant, she was earning Rs.5,000/- per month by working as a beedi worker. But except oral evidence, no supporting evidence was put forth by the claimant. However, in the light of the decision of the Supreme Court in SARLA VERMA v. DELHI TRANSPORT CORPORATION<sup>1</sup>, Rs.3,000/- can be taken as monthly income of the claimant. The injuries, which are fracture of both bones of left forearm, fracture of nasal bone and fracture of maxilla, would disable the claimant at least for a period of three months, hence, Rs.3,000/- x 3 = Rs.9,000/- can be awarded under the head loss of income during the period of treatment, rest and recovery.

5. Counsel for the appellant also contended that no amount was awarded towards transportation charges. The medical record shows that the claimant underwent treatment, hence, Rs.5,000/- can be taken as the expenses for transportation and other incidental charges and the same is awarded. The other contention is with regard to the failure of the Court below to award any amount towards future surgery that is required by the claimant. The attention of this Court is drawn to the evidence of P.W.2, who is the Civil Assistant Surgeon, Headquarters Hospital, Nizamabad, where the claimant was treated. But, unfortunately, the evidence of P.W.2 does not anywhere reflect that the claimant requires any future surgery. Hence, no amount for future surgery need be awarded.

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<sup>1</sup> (2009) 6 SCC 121

10. In the result, the award of the Court below stands enhanced by Rs.14,000/- as indicated above and the rest of the award is left uninterfered with. 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 closed. There shall be no order as to costs.

July 27, 2017  
DSK

T. RAJANI, J

