

SMT JUSTICE T. RAJANI

MACMA.No.449 of 2006

JUDGMENT:

This appeal is preferred by the appellant, who is the claimant before the Court below, assailing the order of IV Additional District Judge, Karimnagar, in O.P.No.287 of 2003 dated 21.11.2005 on the grounds that the Court below did not assess the compensation amount properly based on established principles of law and the claim was Rs.2,00,000/- and the Court below, having held that the accident occurred due to the rash and negligent driving of respondent No.1, awarded meagre compensation of Rs.82,000/- and the amount awarded under the other heads is very inadequate.

Heard learned counsel for the appellant.

Learned counsel for the respondents did not appear.

A perusal of the judgment of the Court below shows that absolutely, an irrational approach was adopted. It was noted that the claimant claimed Rs.1,25,000/- towards continuing and permanent disability. When he was personally brought to the Court, the Court below observed that his right leg was amputated below the knee. It also expressed its view by stating that the

claimant has to carry his entire life without his right leg. Having observed so, the Court below awarded Rs.50,000/- towards permanent disability on the ground that the claimant is a minor and therefore, the application of multiplier is not possible. The said approach of the Court below is totally erroneous. The Second Schedule to the Motor Vehicles Act, 1988 (for short 'the Act') prescribes multiplier for all age groups and specifies '15' as multiplier for the age group up to 15 years. But, by virtue of the clarification given in **Sarla Verma & Others v. Delhi Transport Corporation and another**¹, the relevant multiplier for the age of 15 years is '20'. The same was overruled in **Reshma Kumari v. Madan Mohan**² and the multiplier for the age group up to 15 years is fixed as '15'.

In this case, the Court below ought to have taken the said multiplier as suitable for the age of the claimant and the notional income as per the Second Schedule to the Act could have been taken as Rs.15,000/-. There was clear guidance offered to the Court below by the Second Schedule to the Act which ought to have been followed. Hence, the same needs to be corrected in this appeal. But, however, the claimant did not examine the doctor to prove the disability. Even if the disability percentage was stated

¹ (2009) 6 Supreme Court Cases 121

² (2009)13 SCC 422

by the doctor, it has to be assessed vis-à-vis the future avocation of the claimant. Hence, as there is no data available pertaining to the future avocation of the claimant, considering that the amputation would affect not only the quality of the life of the claimant but also his avocation, 50% is taken as the disability. Hence, Rs.7,500/- would be the loss of annual income and if the same is multiplied with '15', it would come to Rs.1,12,500/-. Hence, the same is awarded as compensation towards future loss of income in place of Rs.50,000/- which was awarded by the Court below.

The medical bill Ex.A.4 shows only Rs.7,100/- but the Court below awarded Rs.10,000/- in spite of its observation that Ex.A.4 was not proved. Amount of Rs.20,000/- awarded towards pain and suffering is also found adequate. Considering that there is a permanent disability to the claimant, some amount should be awarded towards future loss of amenities of life also. Hence, Rs.30,000/- is awarded towards future amenities of life.

The appellant's counsel contends that no attendant charges were granted by the Court below. Hence, considering that the claimant received amputation of his left leg and he was hospitalized, Rs.40,000/- can be awarded towards incidental expenditure like, transportation, attendant charges etc. Hence, in

all, the compensation comes to Rs.2,12,500/- (Rs.1,12,500/- + Rs.10,000/- + Rs.20,000/- + Rs.30,000/- + Rs.40,000/-).

Hence, the order of the Court below is modified to the extent indicated above and the rest of the order is left uninterfered with. This order shall relate back to the date of the decree and the enhanced amount shall carry interest at the rate specified and from the time indicated in the order of the Court below.

In the result, the appeal is allowed in part, with proportionate costs.

Pending miscellaneous petitions, if any, shall stand closed.

23rd JUNE, 2017.

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SMT. T. RAJANI, J