

SMT JUSTICE T. RAJANI

MACMA.No.420 of 2006

JUDGMENT:

This appeal is preferred by the claimant before the Court below questioning the order of Chairman, Motor Accident Claims Tribunal-cum-III Additional District Judge (Fast Track Court), Ongole, in M.V.O.P.No.246 of 2004 dated 10.11.2005.

In the said order, the Court below granted a sum of Rs.12,500/- to the claimant towards grievous injuries suffered by him. In issue No.2, the Court below held that the claimant is not entitled to claim an amount of Rs.1,00,000/- as he did not prove and establish that he was earning Rs.150/- per day and incurred Rs.5,000/- towards expenditure for the treatment. There is absolutely no discussion made by the Court below with regard to the evidence that was placed before it by the claimant.

The claimant examined P.W.2 apart from himself being examined as P.W.1. P.W.2 is the doctor who treated the claimant. He stated that the injuries sustained by the claimant are fracture of dislocation of left hip with superior ramii of pubic bone and fracture of left pubic ramii. Though in the first instance, in his chief examination, P.W.2 did not speak about the disability that

the claimant sustained, but on being recalled, in his further chief-examination, he was confronted with Ex.A.4 which is the disability certificate. The disability mentioned in Ex.A.4 is 25% permanent and partial and to testify the said fact, he stated that the claimant cannot do normal work with the said disability. The claimant is stated to be a mason aged 40 years. Though there is no proof of income, by accepting his own testimony, the income of the claimant can be taken as Rs.3,000/- per month.

The disability of the claimant as stated by P.W.2 is 25% but the nature of his disability is not explained by P.W.2, who did not state as to how the disability would hamper the avocation of the claimant. However, it is obvious that there is some disability due to the injuries sustained to the hip of the claimant. The claimant being a mason would be definitely affected by the said disability, if not to an extent of 25%, at least to an extent of 15%. It would then result in loss of Rs.450/- per month and Rs.5,400/- per annum. As per **Sarla Verma & Others v. Delhi Transport Corporation and another**¹, the multiplier which is relevant for the age of the claimant is '15'. Then, Rs.81,000/- (Rs.5,400/- X 15) would be the loss of future income to the claimant. Apart from the above, Rs.15,000/- can be awarded towards loss of future amenities of life, which was not awarded by the Court below.

¹ (2009) 6 Supreme Court Cases 121

The nature of injuries sustained by the claimant would also suggest that he might have been unable to work at least for a period of two months. Hence, Rs.6,000/- can be awarded towards loss of income during the period of treatment and rest etc. Hence, in all, an amount of Rs.1,02,000/- can be awarded to the claimant and the same is restricted to Rs.1,00,000/- as claimed by the claimant.

Hence, the order of the Court below is modified to the extent 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 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.

30th JUNE, 2017.

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SMT. T. RAJANI, J