

SMT. JUSTICE T.RAJANI

MACMA. No.798 of 2006

JUDGMENT:

This appeal is preferred by the appellant, who is the claimant in the lower Court, assailing the judgment of the Motor Accidents Claims Tribunal (District Judge), Nizamabad passed in O.P. No.1224 of 2001 on 17.08.2005 on the grounds that the learned Tribunal did not award adequate compensation under any of the heads.

Heard the learned counsel for the appellant. The counsel for the respondent did not appear.

The learned counsel for the appellant persuades the Court by relying on the evidence of P.W.2, who is Dr.L.Ramulu, who stated that injuries sustained by the claimant resulted in 80% disability, to enhance the compensation amount. The injuries sustained by the claimant are however, evident from the medical certificate marked as Ex.A-3, which shows that the claimant sustained three fracture injuries i.e. fracture of Pelvis-ilium right, fracture of shaft humerus left and fracture of 3,4,5 ribs left side and contusion on abdomen. The learned counsel also submits that the claimant was treated as inpatient for two months, but unfortunately there is no supporting record pertaining to the treatment of the claimant for two months as inpatient. More over, Exs.X-1 and 2, though show three fracture injuries, mentions the date of discharge as 14.04.2001 and the date of admission is also shown as same. Hence, the contention of the learned counsel for the appellant does not receive support from any of the documents filed by the claimant himself and marked through the doctor, who was examined on his behalf. The learned Tribunal considering the nature of the injuries awarded only Rs.5,000/- towards pain and suffering, which in my considered opinion is very low, even going by the number and nature of the injuries. Therefore, the said amount can be termed as very meager

and is enhanced to Rs.40,000/-. The disability, as stated by the P.W.2, unfortunately does not receive any support from the material on record. The claimant was present before this Court at the request of the learned counsel for the appellant for personal assessment of the disability.

It appears that the claimant though does not seem to have sustained 80% disability, is suffering from some disability which resulted in restriction of movements of his waist and hand. The claimant is said to be a painter. So, 60% can be taken as the disability affecting his avocation. The income of the claimant was taken by the Tribunal as Rs.3,000/- per month, as there was no evidence to prove his income which is stated to be Rs.8,000/- pm. Then the disability of 60% would lead to loss of income Rs.1800/- per month and Rs.21,600/- per annum. The age of the claimant is stated to be 35 years and the multiplier relevant for his age as per the **SARALA VERMA AND OTHERS Vs. DELHI TRANSPORT CORPORATION AND ANOTHER**¹ is 16. Hence, Rs.21600 x 16 = Rs.3,45,600/- (Rupees three lakhs forty five thousand and six hundred only) can be awarded.

The compensation granted towards pain and suffering which is only a meager amount of Rs.5,000/- can be enhanced to Rs.40,000/-, as the claimant sustained as many as three fracture injury, including the one on pelvis, which would require total bed rest resulting considerable pain both mental and physical. The amount awarded for disability can be treated as towards loss of future amenities of life. No amount was awarded towards transportation and other incidental expenditure. The claimant having sustained fracture to Pelvis, might have required special transportation for his visits to and from hospitals where he took his treatment. Hence Rs.15,000/- is awarded for the same. The award of the lower Court shall stand enhanced to the extent indicated above.

¹ 2009 ACJ 1298 SC

The award 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 award of the Tribunal.

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

JUSTICE T.RAJANI

Date: 23.06.2017
LSK

