

HON'BLE SMT JUSTICE T. RAJANI

M.A.C.M.A. No. 478 of 2008

JUDGMENT:-

This appeal is preferred by the appellant, who is the claimant before the Court below, assailing the judgment of IV Additional District and Sessions Judge, Fast Track Court, R.R. District in O.P.No. 698 of 2005 dated 28.09.2007.

The grounds on which the appeal was preferred are inadequacy of the compensation and the interest granted by the lower Court.

Heard the learned counsel for the appellant.

The learned counsel for the 2nd respondent has not appeared.

The learned counsel for the appellant contends that the lower Court did not believe Ex.A6 – Salary-cum-Service Certificate of the petitioner in the light of contrary averment being made in the petition. In the petition, the petitioner stated that his salary is Rs.8,000/- p.m., but in Ex.A6, his salary is shown as Rs.14,800/-. The learned counsel, however made an attempt to contend that the salary mentioned in the petition is only basic salary, but a perusal of the record shows that Rs.8000/- was shown against the column meant for salary. However, a perusal of Ex.A6 shows that Rs.8000/- was mentioned as basic salary, thereby supporting the contention

of the appellant. Mere non-mentioning the details of salary, shall not deprive the claimant of just compensation, if his case receives support otherwise. Hence, the gross salary as reflected in Ex.A6 i.e. Rs.14,800/- can be believed and accepted. However, the Court below, after discarding Ex.A6 from its consideration, did not award any amount towards probable loss of earnings during the period of the treatment of the petitioner. The petitioner is stated to be working as Assistant Professor, and hence, Rs.14,800/- shown as his salary in Ex.A6 seems to be probable. In the accident, the petitioner sustained fracture to right tibia and injuries on knee. The injuries, in all probability, would require the petitioner to take rest for at least a period of two months. Hence, Rs.29,600/- is awarded under the head loss of earnings for the period of treatment and recovery of the petitioner.

The Court below awarded only Rs.2,000/- towards transportation expenses. The fracture, being to the right leg of the petitioner, would require him to travel by special transportation while going to and from the hospital for the treatment, as such, sum of Rs.8,000/- is awarded under the head transportation expenses in addition to the amount of Rs.2,000/- already granted. Towards pain and suffering caused by the injuries, only Rs.10,000/- was awarded by the Court below as against the claim of Rs.20,000/-. In the light

of the nature of the injuries, I consider it to be on the low side, hence, another sum of Rs.10,000/- is awarded towards pain and suffering. As regards the loss of future income to the claimant, there is absolutely no evidence except the evidence of PW2 who stated that there is 30% disability. The nature of disability is not spoken to by PW2 and the relevancy of such disability to the avocation of the claimant is also not explained. Moreover, there is no evidence whether the claimant has sustained any reduction in his salary after the accident due to such disability. Hence, I am not in a position to award any amount under the said head.

Hence, the compensation awarded by the lower Court stands enhanced by Rs.47,600/- and it shall carry interest at the rate specified and from the time indicated by the lower Court.

Accordingly, the appeal is partly allowed. No order as to costs.

As a sequel, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

T. RAJANI, J

24.08.2017

bcj