

SMT JUSTICE T. RAJANI

MACMA.No.1124 of 2008

JUDGMENT:

This appeal is preferred by the appellant, who is the claimant before the Court below, assailing the judgment of the III Motor Accidents Claims Tribunal, Warangal in OP.No.925 of 2006 dated 03.12.2007 as regards inadequacy of the compensation that was granted by the tribunal below.

2. Heard the counsel for the appellant. Counsel for the respondent remained absent.

3. Counsel for the appellant contends that the amount awarded towards pain and suffering for injuries 1 and 2, which are fracture of left humerus and fracture of 6th and 7th ribs on the left side, is meagre, it being Rs.15,000/- and Rs.10,000/- respectively. The contention of the counsel for the appellant seems to be reasonable in the light of the fact that the injuries are fracture injuries, hence, another sum of Rs.5,000/- can be awarded towards the above injuries respectively, for the pain and suffering caused by them. The counsel contends that the tribunal below, by considering that the claimant did not file any certificate from his employer, that he sustained loss of pay, as a result of availing 21 days leave, disallowed the claim under that head.

4. In the considered opinion of this Court, even though no salary certificate is filed, the probabilities of the case can be considered and adequate compensation can be awarded. Though the claimant failed to

produce any salary certificate, the injuries would clearly imply that the claimant would require rest, if not more, at least for 21 days. There need not be any proof of leave for that period, which could have been easily assumed by the tribunal below. It is not necessary that there should be loss of pay for the said period. The claimant need not be made to suffer or forced to go on leave for the wrong of somebody else. He could have utilized the said leave for his own purpose had he not met with the accident. Hence, he needs to be compensated for the forced loss of leave. Hence, by taking the salary of the claimant, which is stated to be Rs.15,322/- and which is reflected in Ex.A8, salary certificate, issued by the employer – Singareni Collieries Company Limited, Rs.10,725/- would be loss of pay during the period of leave that the claimant had to take due to the injuries sustained by him. The Court below also did not award any amount towards loss of future amenities of life, though there is evidence of the doctor, who stated that the claimant has not recovered totally. Hence, Rs.5,000/- is awarded towards loss of future amenities. However, this Court considers that there need not be any compensation awarded towards loss of future income, as evidence does not show that there was any reduction in the salary of the claimant or that he was removed from service due to the said disability. The claimant is entitled to compensation of $\text{Rs.5,000/-} \times 2 = 10,000/-$ + Rs.10,725 + Rs.5,000/- = Rs.25,725/-.

5. Hence, the award of the Court below stands enhanced by Rs.25,725/- 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.

August 16, 2017
DSK

T. RAJANI, J

