

SMT. JUSTICE T.RAJANI

MACMA. No.197 of 2008

JUDGMENT:

This appeal is preferred by the appellant, who is the claimant in the lower court, assailing the judgment of the XIII Additional Chief Judge, City Civil Court, (FTC), Hyderabad, passed in O.P. No.111 of 2006 dated 16.11.2007 on the inadequacy of the compensation granted by the lower Court.

Heard the learned counsel appearing for the claimant and the learned counsel appearing for the 2nd respondent, National Insurance Company Limited, and perused the material on record.

The learned counsel for the appellant submits that the lower Court awarded only Rs.10,000/- towards disability while the, evidence of P.W.2, Doctor who treated the claimant, is to the effect that he sustained disability to an extent 40% and the same is not put to serious question in the cross examination. This Court is in agreement with the submission made by the appellant's counsel. There is absolutely no reason for the lower Court to disbelieve the evidence of P.W.2 and there is no discussion in that regard. Hence, 40% can be taken as the disability affecting the avocation of the claimant, who is stated to be a driver.

The disability is in the form of restriction of knee joint movement added to limping. Hence, same would affect the efficiency of the claimant and have impact on his income. The income of the claimant was taken as Rs.100/- per day, which comes to Rs.3,000/- per month. 40% of the disability would cause loss of Rs.1,200/- per month and Rs.14,400/- per annum. Age of the claimant is stated to be 28 years and the multiplier relevant is 17, according to the **SARALA VERMA Vs. DELHI**

TRANSPORT CORPORATION¹. Hence, Rs.14,400/- x 17 = Rs.2,44,800/- would be the loss of future income of the claimant. From that amount Rs.10,000/-, which was awarded by the lower Court, can be deducted,.

The learned counsel also argued that the lower Court did not consider the evidence of P.W.2 on the aspect of future surgery required by the claimant. A perusal of the evidence of P.W.2 shows that though he stated that the claimant required another surgery, he did not speak about the possible expenditure that would be incurred for the said surgery. The learned counsel, however, seeks the Court to grant at least Rs.10,000/- towards future surgery. Considering the probability that the cost of any surgery would, in the minimum be the said amount, same is awarded towards expenses for future surgery.

The learned counsel did not press on the inadequacy of the amounts awarded under other heads. Hence, in all, the award of the lower court stands enhanced by Rs.2,44,800/-, which can be rounded to Rs.2,45,000/-. Including the amount awarded by the lower Court, the award mount comes to Rs.3,17,000/- but same is restricted to Rs.3,00,000/- as per the claim made by the claimant.

In the result, the appeal is allowed by enhancing the award amount to Rs.3,00,000/- (rupees three lakhs only) with proportionate costs.

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 lower Court.

JUSTICE T.RAJANI

Date: 07.04.2017
LSK

