

SMT JUSTICE T. RAJANI

M.A.C.M.A. No.431 of 2008

JUDGMENT:

This appeal is preferred by the appellant, who is claimant before the Court below, assailing the judgment of the VI Additional District Judge, Tirupathi in M.V.O.P. No.531 of 2004 dated 05.11.2007 on the ground that the Court below awarded only a meagre compensation and failed to follow the principles of law in awarding compensation.

2. Heard both the counsel.

3. Learned counsel for appellant contends that the claimant sustained four injuries, which are grievous in nature and Rs.20,000/- was awarded towards pain and suffering, though the injuries are fractures to right thigh, back bone and both pelvis joints and crushing of both of his testicles. He also underwent elaborate treatment as stated by PWs.3 to 5. Therefore, I find that another sum of Rs.50,000/- can be awarded towards pain and suffering.

4. The Court below awarded Rs.5,000/- towards loss of amenities and loss of expectation of life; and Rs.5,000/- towards continuing and permanent disability.

5. The evidence of PWs.3 to 5 is relevant with regard to the injuries and the disability. But none of them stated the percentage or nature of disability, while speaking about the disability. Except stating that there is permanent disability, PW.3 could not state anything more with regard to the nature of disability or the percentage of disability. PWs.4 and 5 also did not speak about the disability. According to them, the claimant did not turn up for follow up treatment. Moreover, PW.5 stated that there is no disability. However, considering the nature of injuries and the nature of treatment, as stated by PWs.3 to 5, this Court finds that there might have been some disability due to which the Court below had to award Rs.5,000/- . Hence, the same can be enhanced by another Rs.35,000/-, which would suffice as compensation towards loss of future amenities of life and loss of expectation of life.

6. The Court below awarded lumpsum amount of Rs.50,000/- for loss of future income. As already observed, in the absence of any evidence regarding disability, nothing more can be awarded. Hence, I am not inclined to interfere with the said part of the award. The medical bills were taken into consideration in toto and the whole amount was awarded.

7. Hence the award of the lower Court is modified to the extent indicated above and the award is enhanced by Rs.85,000/- . This award shall relate back to the date of decree and the enhanced compensation awarded shall carry interest at the rate specified and from the time indicated in the award by the Court below.

8. 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.

Date:06.10.2017
Knl



T. RAJANI, J